

231769

EXPEDITED TREATMENT REQUESTED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
PETITION FOR SUBPOENAS**

ENTERED
Office of Proceedings
JAN 27 2012
Part of
Public Record

Pursuant to 49 U.S.C. § 721(c) and 49 C.F.R. §§ 1113.2, Respondent BNSF Railway Company hereby petitions the Board to issue subpoenas directed to each of the sixteen members of Western Coal Traffic League ("WCTL"). Those members are: Ameren Energy Fuels & Services Company; Arizona Electric Power Cooperative, Inc.; Austin Energy; CLECO Corporation; CPS Energy; Entergy Services, Inc.; Kansas City Power & Light Company; Lower Colorado River Authority; MidAmerican Energy Company; Minnesota Power; Nebraska Public Power District; Omaha Public Power District; Texas Municipal Power Agency; Western Farmers Electric Cooperative; Western Fuels Association, Inc.; and Wisconsin Public Service Corporation. BNSF requests expedited consideration of this petition in light of the fast approaching close of discovery in this proceeding.

The documents that BNSF seeks are described in the proposed subpoenas that are attached as Exhibit 1. As explained below, the document requests seek information from WCTL's members that is clearly relevant to the issues in this proceeding. Indeed, for the most part, BNSF's document requests seek information that is comparable to the information that WCTL has sought from BNSF in discovery requests directed to BNSF.

BNSF attempted to obtain the information at issue here by serving discovery on WCTL and through WCTL's counsel on each of WCTL's members. However, WCTL and its members refused to provide the requested information on grounds that WCTL's members are not formal parties to this proceeding. BNSF is filing along with this petition for subpoenas a motion to compel WCTL to respond to discovery requests seeking information from its members. For the reasons set out in that motion, BNSF is entitled to the requested information from WCTL without having to go through the more time consuming and burdensome process of obtaining third party subpoenas to develop information from the shippers on whose behalf WCTL initiated this litigation. Nevertheless, BNSF is filing the instant petition as an alternative means of obtaining the requested information in the event the Board does not grant BNSF's motion to compel. If BNSF's motion to compel is denied, the Board should grant BNSF's petition for subpoenas because BNSF's document requests seek relevant information, the document requests are limited in scope and therefore will not be burdensome to WCTL's members, and the information is not available through normal discovery.

I. BACKGROUND

The Board initiated this proceeding in response to a petition filed by WCTL on August 11, 2011 to reopen the decision in *Ark. Elec. Coop. Corp.—Pet. for Decl. Order*, Docket No. FD 35305 (STB served Mar. 3, 2011) (the “*Coal Dust I Decision*”), enjoin BNSF's Coal Loading Rule¹ that was adopted to comply with the Board's *Coal Dust I Decision*, and order BNSF to participate in broad, multi-party mediation regarding coal dust mitigation. The Board denied WCTL's petition in decisions dated August 31, 2011 and November 22, 2011. Instead, the Board initiated this declaratory order proceeding to address the narrow issue of “the

¹ BNSF's “Coal Loading Rule” refers to Items 100, and Appendices A and B thereto, of BNSF Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

reasonableness of the safe harbor provision” that BNSF adopted in its Coal Loading Rule. Nov. 22, 2011 Decision at 4. On December 16, 2011, the Board adopted the expedited procedural schedule proposed jointly by BNSF and WCTL. Under this expedited schedule, the fifty-day discovery period closes on February 6, 2012, and opening evidence is due forty-five days later on March 20, 2012.

BNSF served its First Set of Interrogatories and Requests for Production of Documents on WCTL on December 30, 2011. *See* Ex. 2. BNSF’s discovery requests sought information relating to the issues that WCTL had raised in its August 11, 2011 petition that were relevant to the reasonableness of the safe harbor provision in the Coal Loading Rule. The scope of BNSF’s discovery requests was very similar to the scope of discovery requests that WCTL had served on BNSF on December 23, 2011. *See* Ex. 3. BNSF has agreed to produce most of the materials requested by WCTL.

Along with the discovery requests to WCTL, BNSF sent WCTL’s counsel separate discovery requests directed to each of WCTL’s members. *See* Ex. 4. In an accompanying letter, BNSF’s counsel made clear that if WCTL’s interrogatory responses and document productions included responses and productions made on behalf of WCTL’s members, it would be unnecessary for the individual WCTL members to respond separately. *See* Ex. 4.

On January 17, 2012, BNSF received WCTL’s responses and objections and a letter from WCTL’s counsel. *See* Ex. 5. The letter stated that WCTL’s members would not be responding to the separate discovery requests directed to them. The WCTL letter claimed that BNSF was not entitled to seek information from WCTL’s members because “none of the Entities is a party to [this] proceeding.” *See* Ex. 5. In addition, in response to BNSF’s discovery requests to WCTL, WCTL objected to producing information from its members on similar grounds that

WCTL's members are not parties to the proceeding. *See* Ex. 5 at 2 (General Response and Objection No. 5). Moreover, WCTL's responses to the discovery requests directed to WCTL made it clear that WCTL had little or no information about the coal dust suppression plans and activities of its members and it did not intend to seek out such information to provide to BNSF. *See, e.g.,* Ex. 5 at 10 (stating in response to BNSF's Interrogatory 9 that "no member has informed [WCTL] regarding arrangements with coal mines and/or suppliers of coal dust suppression products or services for the future application of Topper Agents to rail cars loaded with coal").

Concurrently with the filing of this Petition, BNSF is filing a Motion to Compel Discovery from Western Coal Traffic League. If the Board grants BNSF's motion, there will be no need to issue the subpoenas requested herein.

II. The Board Should Issue The Requested Subpoenas If It Does Not Grant BNSF's Motion To Compel.

49 U.S.C. § 721(c)(1) authorizes the Board to "subpoena witnesses and records related to a proceeding of the Board from any place in the United States" Under the Board's rules, a party requesting a subpoena must show "general relevance and reasonable scope of the evidence sought." 49 C.F.R. §§ 1113.2(b)(1) & (2). In deciding whether to issue a subpoena, the Board considers the value of the information to the requesting party and the burden of providing the information sought. *See, e.g., Otter Tail Power Co. v. Burlington N. & Santa Fe Ry. Co.*, Docket No. 42071, at 5 (STB served Nov. 15, 2002). The Board also considers whether the requested materials can be obtained through normal discovery procedures. *See Pub. Serv. Co. of Colo. d/b/a Xcel Energy v. Burlington N. & Santa Fe Ry. Co.*, at 3 (STB served Jan. 31, 2002).

There should be no dispute here over the relevance of the information that BNSF seeks from WCTL's members. Most of the information that BNSF seeks in its document requests is

similar to information that WCTL has sought in its discovery requests to BNSF. The document requests in BNSF's proposed subpoenas are summarized below.

- Requests seeking documents relating to the release of coal dust while the coal is in transit by rail. This category covers Request for Production ("RFP") 1 in each subpoena. WCTL, which is litigating on behalf of its members, did not object on relevance grounds to discovery requests from BNSF seeking this category of information. *See* Ex. 5 at 12, 16-17. WCTL's own discovery requests seek similar information from BNSF. *See* Ex. 3 at Interrogatory 9 (seeking production of "all analyses of coal dust emissions from coal cars").
- Requests seeking documents relating to the costs and effectiveness of coal dust suppression products or services. This category covers RFP 2 in each subpoena. WCTL did not object on relevance grounds to discovery requests from BNSF seeking this category of information. *See* Ex. 5 at 5-6, 10-11, 12-13. WCTL's own discovery requests seek similar information from BNSF. *See* Ex. 3 at Interrogatories 7-8 (seeking information about topper testing), RFP 11 (seeking production of "all analyses relating to costs to comply" with BNSF's 2011 Coal Loading Rule).
- Requests seeking documents relating to activities and plans to apply coal dust suppression products or services to reduce the release of coal dust while the coal is in transit by rail. This category covers RFPs 3 and 4 in each subpoena. WCTL did not object on relevance grounds to discovery requests from BNSF seeking this category of information. *See* Ex. 5 at 9-10, 13-14. WCTL's own discovery requests seek similar information from BNSF. *See* Ex. 3 at RFP 14 (seeking "documents relating to communications BNSF has had with coal shippers concerning" BNSF's 2011 Coal Loading Rule).
- Requests seeking documents relating to the effects, if any, that coal dust suppression products or services have on railroad or shipper employees and property, or on power generation. This category covers RFPs 5 and 6 in each subpoena. WCTL did not object on relevance grounds to discovery requests from BNSF seeking this category of information. *See* Ex. 5 at 14-15. WCTL's own discovery requests seek similar information from BNSF. *See* Ex. 3 at RFP 8 (seeking documents relating to "adverse impacts" of coal dust suppression products).
- Requests seeking documents relating to communications between WCTL or its members and any other person regarding BNSF's Coal Loading Rule. This category covers RFPs 8 and 9 in each subpoena. WCTL did not object on relevance grounds to discovery requests from BNSF seeking this information. *See* Ex. 5 at 17-18. WCTL's own discovery requests seek similar information from BNSF. *See* Ex. 3 at RFPs 14 & 16 (seeking documents regarding BNSF's communications with coal shippers and coal suppliers concerning the Coal Loading Rule).

In addition to the document requests described above, RFP 7 in each subpoena seeks documents relating to coal dust suppression products or services used to manage coal dust in coal handling and storage. WCTL objected on relevance grounds to discovery requests from BNSF seeking this information. *See* Ex. 5 at 11, 15-16. However, the requested information is clearly relevant. It is BNSF's understanding that coal shippers often apply chemical agents and other coal dust suppression products or services to reduce the release of coal dust in the handling and storage of coal including the release of coal dust from stationary stockpiles. The cost and effectiveness of those dust suppression technologies and the effect of those chemical agents on employees, equipment, and electricity generation are issues that may have a direct bearing on the issues in this proceeding and BNSF is entitled to discovery as to those issues.

The document requests in the proposed subpoenas are also reasonable in scope. The nine document requests in each subpoena seek information that relates directly to the narrow subjects at issue in this proceeding. Indeed, for the most part, WCTL's discovery requests seek comparable information.

Because the proposed subpoenas are narrowly drawn, the subpoenas will not be unduly burdensome for WCTL's members to respond to. A WCTL member should have little difficulty locating documents created since November 1, 2009 that relate to topics such as its coal dust mitigation activities, plans, and costs. Any burdens to WCTL's members will be far outweighed by the value to BNSF of obtaining relevant information from WCTL's members and by the value to the Board of having a complete record in this proceeding.

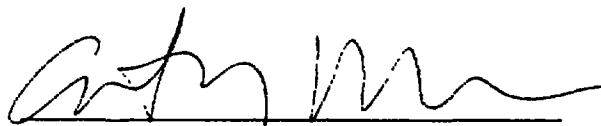
Finally, BNSF was unable to obtain the requested information through discovery. WCTL and its members have refused to respond to discovery requests seeking information from WCTL's members, and WCTL has generally claimed that it has little or no knowledge about its

members' coal dust mitigation activities and plans, and the costs thereof. If the Board denies BNSF's motion to compel, issuing subpoenas for discovery from WCTL's members will be necessary for BNSF to obtain this evidence.

CONCLUSION

BNSF believes that the Board should grant BNSF's separately filed motion to compel WCTL to respond to BNSF's discovery requests on behalf of WCTL's members. If the Board denies BNSF's motion to compel, the Board should issue subpoenas directed to each of WCTL's members in the form attached as Exhibit 1.

Respectfully submitted,



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January 27, 2012

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of January, 2012, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

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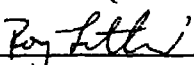
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Roy E. Litland

Exhibit 1

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

SUBPOENA TO AMEREN ENERGY FUELS & SERVICES COMPANY

Pursuant to 49 U.S.C. § 721 and 49 C.F.R. § 1113.2, the Surface Transportation Board ("Board") hereby issues this Subpoena directing Ameren Energy Fuels & Services Company ("AFS") to respond to the Requests for Production of Documents set forth herein for use in the above-captioned proceeding.

INSTRUCTIONS

1. The documentary evidence requested in this Subpoena shall be provided within twenty days of the date this Subpoena is served on AFS, unless otherwise agreed by counsel for AFS and counsel for BNSF Railway Company ("BNSF"). AFS shall produce copies of responsive documents to BNSF's counsel, Samuel M. Sipe, Jr., at the offices of Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036.

2. Responsive documents that are confidential or highly confidential may be produced under the terms of the Board's January 13, 2012 Protective Order in the above-captioned proceeding.

3. You are required to produce all responsive documents in Your possession, custody, or control.

4. You are required to produce responsive documents created on or after November 1, 2009.

DEFINITIONS

1. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

2. “Coal Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

3. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30.

4. “You” and “Your” refer to AFS, as well as its employees, agents, and all others acting (or who act or have acted) on its behalf.

REQUESTS FOR PRODUCTION

1. Please produce all documents that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal or coal dust that is lost during handling or storage of coal, including handling or storage of coal at stockpiles at power generating facilities, including but not limited to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Loading Rule.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

SUBPOENA TO ARIZONA ELECTRIC POWER COOPERATIVE, INC.

Pursuant to 49 U.S.C. § 721 and 49 C.F.R. § 1113.2, the Surface Transportation Board ("Board") hereby issues this Subpoena directing Arizona Electric Power Cooperative, Inc. ("AEPCO") to respond to the Requests for Production of Documents set forth herein for use in the above-captioned proceeding.

INSTRUCTIONS

1. The documentary evidence requested in this Subpoena shall be provided within twenty days of the date this Subpoena is served on AEPCO, unless otherwise agreed by counsel for AEPCO and counsel for BNSF Railway Company ("BNSF"). AEPCO shall produce copies of responsive documents to BNSF's counsel, Samuel M. Sipe, Jr., at the offices of Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036.
2. Responsive documents that are confidential or highly confidential may be produced under the terms of the Board's January 13, 2012 Protective Order in the above-captioned proceeding.

3. You are required to produce all responsive documents in Your possession, custody, or control.

4. You are required to produce responsive documents created on or after November 1, 2009.

DEFINITIONS

1. "BNSF" refers to BNSF Railway Company, and includes its predecessors.

2. "Coal Loading Rule" means Item 100, and Appendices A and B thereto, of BNSF's Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

3. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30.

4. "You" and "Your" refer to AEPCO, as well as its employees, agents, and all others acting (or who act or have acted) on its behalf.

REQUESTS FOR PRODUCTION

1. Please produce all documents that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal or coal dust that is lost during handling or storage of coal, including handling or storage of coal at stockpiles at power generating facilities, including but not limited to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Loading Rule.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

SUBPOENA TO AUSTIN ENERGY

Pursuant to 49 U.S.C. § 721 and 49 C.F.R. § 1113.2, the Surface Transportation Board ("Board") hereby issues this Subpoena directing Austin Energy to respond to the Requests for Production of Documents set forth herein for use in the above-captioned proceeding.

INSTRUCTIONS

1. The documentary evidence requested in this Subpoena shall be provided within twenty days of the date this Subpoena is served on Austin Energy, unless otherwise agreed by counsel for Austin Energy and counsel for BNSF Railway Company ("BNSF"). Austin Energy shall produce copies of responsive documents to BNSF's counsel, Samuel M. Sipe, Jr., at the offices of Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036.

2. Responsive documents that are confidential or highly confidential may be produced under the terms of the Board's January 13, 2012 Protective Order in the above-captioned proceeding.

3. You are required to produce all responsive documents in Your possession, custody, or control.

4. You are required to produce responsive documents created on or after November 1, 2009.

DEFINITIONS

1. "BNSF" refers to BNSF Railway Company, and includes its predecessors.

2. "Coal Loading Rule" means Item 100, and Appendices A and B thereto, of BNSF's Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

3. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30.

4. "You" and "Your" refer to Austin Energy, as well as its employees, agents, and all others acting (or who act or have acted) on its behalf.

REQUESTS FOR PRODUCTION

1. Please produce all documents that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal or coal dust that is lost during handling or storage of coal, including handling or storage of coal at stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Loading Rule.

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**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

SUBPOENA TO CLECO CORPORATION

Pursuant to 49 U.S.C. § 721 and 49 C.F.R. § 1113.2, the Surface Transportation Board ("Board") hereby issues this Subpoena directing CLECO Corporation ("CLECO") to respond to the Requests for Production of Documents set forth herein for use in the above-captioned proceeding.

INSTRUCTIONS

1. The documentary evidence requested in this Subpoena shall be provided within twenty days of the date this Subpoena is served on CLECO, unless otherwise agreed by counsel for CLECO and counsel for BNSF Railway Company ("BNSF"). CLECO shall produce copies of responsive documents to BNSF's counsel, Samuel M. Sipe, Jr., at the offices of Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036.
2. Responsive documents that are confidential or highly confidential may be produced under the terms of the Board's January 13, 2012 Protective Order in the above-captioned proceeding.

3. You are required to produce all responsive documents in Your possession, custody, or control.

4. You are required to produce responsive documents created on or after November 1, 2009.

DEFINITIONS

1. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

2. “Coal Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

3. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30.

4. “You” and “Your” refer to CLECO, as well as its employees, agents, and all others acting (or who act or have acted) on its behalf.

REQUESTS FOR PRODUCTION

1. Please produce all documents that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal or coal dust that is lost during handling or storage of coal, including handling or storage of coal at stockpiles at power generating facilities, including but not limited to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Loading Rule.

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SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

SUBPOENA TO CPS ENERGY

Pursuant to 49 U.S.C. § 721 and 49 C.F.R. § 1113.2, the Surface Transportation Board ("Board") hereby issues this Subpoena directing CPS Energy to respond to the Requests for Production of Documents set forth herein for use in the above-captioned proceeding.

INSTRUCTIONS

1. The documentary evidence requested in this Subpoena shall be provided within twenty days of the date this Subpoena is served on CPS Energy, unless otherwise agreed by counsel for CPS Energy and counsel for BNSF Railway Company ("BNSF"). CPS Energy shall produce copies of responsive documents to BNSF's counsel, Samuel M. Sipe, Jr., at the offices of Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036.
2. Responsive documents that are confidential or highly confidential may be produced under the terms of the Board's January 13, 2012 Protective Order in the above-captioned proceeding.

3. You are required to produce all responsive documents in Your possession, custody, or control.

4. You are required to produce responsive documents created on or after November 1, 2009.

DEFINITIONS

1. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

2. “Coal Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

3. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30.

4. “You” and “Your” refer to CPS Energy, as well as its employees, agents, and all others acting (or who act or have acted) on its behalf.

REQUESTS FOR PRODUCTION

1. Please produce all documents that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal or coal dust that is lost during handling or storage of coal, including handling or storage of coal at stockpiles at power generating facilities, including but not limited to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Loading Rule.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

SUBPOENA TO ENTERGY SERVICES, INC.

Pursuant to 49 U.S.C. § 721 and 49 C.F.R. § 1113.2, the Surface Transportation Board ("Board") hereby issues this Subpoena directing Entergy Services, Inc. ("ESI") to respond to the Requests for Production of Documents set forth herein for use in the above-captioned proceeding.

INSTRUCTIONS

1. The documentary evidence requested in this Subpoena shall be provided within twenty days of the date this Subpoena is served on ESI, unless otherwise agreed by counsel for ESI and counsel for BNSF Railway Company ("BNSF"). ESI shall produce copies of responsive documents to BNSF's counsel, Samuel M. Sipe, Jr., at the offices of Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036.
2. Responsive documents that are confidential or highly confidential may be produced under the terms of the Board's January 13, 2012 Protective Order in the above-captioned proceeding.

3. You are required to produce all responsive documents in Your possession, custody, or control.

4. You are required to produce responsive documents created on or after November 1, 2009.

DEFINITIONS

1. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

2. “Coal Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

3. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30.

4. “You” and “Your” refer to ESI, as well as its employees, agents, and all others acting (or who act or have acted) on its behalf.

REQUESTS FOR PRODUCTION

1. Please produce all documents that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal or coal dust that is lost during handling or storage of coal, including handling or storage of coal at stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Loading Rule.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

SUBPOENA TO KANSAS CITY POWER & LIGHT COMPANY

Pursuant to 49 U.S.C. § 721 and 49 C.F.R. § 1113.2, the Surface Transportation Board ("Board") hereby issues this Subpoena directing Kansas City Power & Light Company ("KCP&L") to respond to the Requests for Production of Documents set forth herein for use in the above-captioned proceeding.

INSTRUCTIONS

1. The documentary evidence requested in this Subpoena shall be provided within twenty days of the date this Subpoena is served on KCP&L, unless otherwise agreed by counsel for KCP&L and counsel for BNSF Railway Company ("BNSF"). KCP&L shall produce copies of responsive documents to BNSF's counsel, Samuel M. Sipe, Jr., at the offices of Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036.
2. Responsive documents that are confidential or highly confidential may be produced under the terms of the Board's January 13, 2012 Protective Order in the above-captioned proceeding.

3. You are required to produce all responsive documents in Your possession, custody, or control.

4. You are required to produce responsive documents created on or after November 1, 2009.

DEFINITIONS

1. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

2. “Coal Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

3. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30.

4. “You” and “Your” refer to KCP&L, as well as its employees, agents, and all others acting (or who act or have acted) on its behalf.

REQUESTS FOR PRODUCTION

1. Please produce all documents that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal or coal dust that is lost during handling or storage of coal, including handling or storage of coal at stockpiles at power generating facilities, including but not limited to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Loading Rule.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

SUBPOENA TO LOWER COLORADO RIVER AUTHORITY

Pursuant to 49 U.S.C. § 721 and 49 C.F.R. § 1113.2, the Surface Transportation Board ("Board") hereby issues this Subpoena directing Lower Colorado River Authority ("LCRA") to respond to the Requests for Production of Documents set forth herein for use in the above-captioned proceeding.

INSTRUCTIONS

1. The documentary evidence requested in this Subpoena shall be provided within twenty days of the date this Subpoena is served on LCRA, unless otherwise agreed by counsel for LCRA and counsel for BNSF Railway Company ("BNSF"). LCRA shall produce copies of responsive documents to BNSF's counsel, Samuel M. Sipe, Jr., at the offices of Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036.
2. Responsive documents that are confidential or highly confidential may be produced under the terms of the Board's January 13, 2012 Protective Order in the above-captioned proceeding.

3. You are required to produce all responsive documents in Your possession, custody, or control.

4. You are required to produce responsive documents created on or after November 1, 2009.

DEFINITIONS

1. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

2. “Coal Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

3. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30.

4. “You” and “Your” refer to LCRA, as well as its employees, agents, and all others acting (or who act or have acted) on its behalf.

REQUESTS FOR PRODUCTION

1. Please produce all documents that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal or coal dust that is lost during handling or storage of coal, including handling or storage of coal at stockpiles at power generating facilities, including but not limited to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Loading Rule.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

SUBPOENA TO MIDAMERICAN ENERGY COMPANY

Pursuant to 49 U.S.C. § 721 and 49 C.F.R. § 1113.2, the Surface Transportation Board (“Board”) hereby issues this Subpoena directing MidAmerican Energy Company (“MidAmerican”) to respond to the Requests for Production of Documents set forth herein for use in the above-captioned proceeding.

INSTRUCTIONS

1. The documentary evidence requested in this Subpoena shall be provided within twenty days of the date this Subpoena is served on MidAmerican, unless otherwise agreed by counsel for MidAmerican and counsel for BNSF Railway Company (“BNSF”). MidAmerican shall produce copies of responsive documents to BNSF’s counsel, Samuel M. Sipe, Jr., at the offices of Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036.

2. Responsive documents that are confidential or highly confidential may be produced under the terms of the Board’s January 13, 2012 Protective Order in the above-captioned proceeding.

3. You are required to produce all responsive documents in Your possession, custody, or control.

4. You are required to produce responsive documents created on or after November 1, 2009.

DEFINITIONS

1. "BNSF" refers to BNSF Railway Company, and includes its predecessors.

2. "Coal Loading Rule" means Item 100, and Appendices A and B thereto, of BNSF's Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

3. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30.

4. "You" and "Your" refer to MidAmerican, as well as its employees, agents, and all others acting (or who act or have acted) on its behalf.

REQUESTS FOR PRODUCTION

1. Please produce all documents that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal or coal dust that is lost during handling or storage of coal, including handling or storage of coal at stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Loading Rule.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

SUBPOENA TO MINNESOTA POWER

Pursuant to 49 U.S.C. § 721 and 49 C.F.R. § 1113.2, the Surface Transportation Board ("Board") hereby issues this Subpoena directing Minnesota Power to respond to the Requests for Production of Documents set forth herein for use in the above-captioned proceeding.

INSTRUCTIONS

1. The documentary evidence requested in this Subpoena shall be provided within twenty days of the date this Subpoena is served on Minnesota Power, unless otherwise agreed by counsel for Minnesota Power and counsel for BNSF Railway Company ("BNSF"). Minnesota Power shall produce copies of responsive documents to BNSF's counsel, Samuel M. Sipe, Jr., at the offices of Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036.

2. Responsive documents that are confidential or highly confidential may be produced under the terms of the Board's January 13, 2012 Protective Order in the above-captioned proceeding.

3. You are required to produce all responsive documents in Your possession, custody, or control.

4. You are required to produce responsive documents created on or after November 1, 2009.

DEFINITIONS

1. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

2. “Coal Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

3. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30.

4. “You” and “Your” refer to Minnesota Power, as well as its employees, agents, and all others acting (or who act or have acted) on its behalf.

REQUESTS FOR PRODUCTION

1. Please produce all documents that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal or coal dust that is lost during handling or storage of coal, including handling or storage of coal at stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Loading Rule.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

SUBPOENA TO NEBRASKA PUBLIC POWER DISTRICT

Pursuant to 49 U.S.C. § 721 and 49 C.F.R. § 1113.2, the Surface Transportation Board ("Board") hereby issues this Subpoena directing Nebraska Public Power District ("NPPD") to respond to the Requests for Production of Documents set forth herein for use in the above-captioned proceeding.

INSTRUCTIONS

1. The documentary evidence requested in this Subpoena shall be provided within twenty days of the date this Subpoena is served on NPPD, unless otherwise agreed by counsel for NPPD and counsel for BNSF Railway Company ("BNSF"). NPPD shall produce copies of responsive documents to BNSF's counsel, Samuel M. Sipe, Jr., at the offices of Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036.
2. Responsive documents that are confidential or highly confidential may be produced under the terms of the Board's January 13, 2012 Protective Order in the above-captioned proceeding.

3. You are required to produce all responsive documents in Your possession, custody, or control.

4. You are required to produce responsive documents created on or after November 1, 2009.

DEFINITIONS

1. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

2. “Coal Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

3. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30.

4. “You” and “Your” refer to NPPD, as well as its employees, agents, and all others acting (or who act or have acted) on its behalf.

REQUESTS FOR PRODUCTION

1. Please produce all documents that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal or coal dust that is lost during handling or storage of coal, including handling or storage of coal at stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Loading Rule.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

SUBPOENA TO OMAHA PUBLIC POWER DISTRICT

Pursuant to 49 U.S.C. § 721 and 49 C.F.R. § 1113.2, the Surface Transportation Board ("Board") hereby issues this Subpoena directing Omaha Public Power District ("OPPD") to respond to the Requests for Production of Documents set forth herein for use in the above-captioned proceeding.

INSTRUCTIONS

1. The documentary evidence requested in this Subpoena shall be provided within twenty days of the date this Subpoena is served on OPPD, unless otherwise agreed by counsel for OPPD and counsel for BNSF Railway Company ("BNSF"). OPPD shall produce copies of responsive documents to BNSF's counsel, Samuel M. Sipe, Jr., at the offices of Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036.
2. Responsive documents that are confidential or highly confidential may be produced under the terms of the Board's January 13, 2012 Protective Order in the above-captioned proceeding.

3. You are required to produce all responsive documents in Your possession, custody, or control.

4. You are required to produce responsive documents created on or after November 1, 2009.

DEFINITIONS

1. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

2. “Coal Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

3. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30.

4. “You” and “Your” refer to OPPD, as well as its employees, agents, and all others acting (or who act or have acted) on its behalf.

REQUESTS FOR PRODUCTION

1. Please produce all documents that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal or coal dust that is lost during handling or storage of coal, including handling or storage of coal at stockpiles at power generating facilities, including but not limited to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Loading Rule.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

SUBPOENA TO TEXAS MUNICIPAL POWER AGENCY

Pursuant to 49 U.S.C. § 721 and 49 C.F.R. § 1113.2, the Surface Transportation Board ("Board") hereby issues this Subpoena directing Texas Municipal Power Agency ("TMPA") to respond to the Requests for Production of Documents set forth herein for use in the above-captioned proceeding.

INSTRUCTIONS

1. The documentary evidence requested in this Subpoena shall be provided within twenty days of the date this Subpoena is served on TMPA, unless otherwise agreed by counsel for TMPA and counsel for BNSF Railway Company ("BNSF"). TMPA shall produce copies of responsive documents to BNSF's counsel, Samuel M. Sipe, Jr., at the offices of Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036.
2. Responsive documents that are confidential or highly confidential may be produced under the terms of the Board's January 13, 2012 Protective Order in the above-captioned proceeding.

3. You are required to produce all responsive documents in Your possession, custody, or control.

4. You are required to produce responsive documents created on or after November 1, 2009.

DEFINITIONS

1. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

2. “Coal Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

3. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30.

4. “You” and “Your” refer to TMPA, as well as its employees, agents, and all others acting (or who act or have acted) on its behalf.

REQUESTS FOR PRODUCTION

1. Please produce all documents that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal or coal dust that is lost during handling or storage of coal, including handling or storage of coal at stockpiles at power generating facilities, including but not limited to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Loading Rule.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

SUBPOENA TO WESTERN FARMERS ELECTRIC COOPERATIVE

Pursuant to 49 U.S.C. § 721 and 49 C.F.R. § 1113.2, the Surface Transportation Board ("Board") hereby issues this Subpoena directing Western Farmers Electric Cooperative ("WFEC") to respond to the Requests for Production of Documents set forth herein for use in the above-captioned proceeding.

INSTRUCTIONS

1. The documentary evidence requested in this Subpoena shall be provided within twenty days of the date this Subpoena is served on WFEC, unless otherwise agreed by counsel for WFEC and counsel for BNSF Railway Company ("BNSF"). WFEC shall produce copies of responsive documents to BNSF's counsel, Samuel M. Sipe, Jr., at the offices of Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036.
2. Responsive documents that are confidential or highly confidential may be produced under the terms of the Board's January 13, 2012 Protective Order in the above-captioned proceeding.

3. You are required to produce all responsive documents in Your possession, custody, or control.

4. You are required to produce responsive documents created on or after November 1, 2009.

DEFINITIONS

1. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

2. “Coal Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

3. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30.

4. “You” and “Your” refer to WFEC, as well as its employees, agents, and all others acting (or who act or have acted) on its behalf.

REQUESTS FOR PRODUCTION

1. Please produce all documents that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal or coal dust that is lost during handling or storage of coal, including handling or storage of coal at stockpiles at power generating facilities, including but not limited to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Loading Rule.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

SUBPOENA TO WESTERN FUELS ASSOCIATION, INC.

Pursuant to 49 U.S.C. § 721 and 49 C.F.R. § 1113.2, the Surface Transportation Board ("Board") hereby issues this Subpoena directing Western Fuels Association, Inc. ("WFA") to respond to the Requests for Production of Documents set forth herein for use in the above-captioned proceeding.

INSTRUCTIONS

1. The documentary evidence requested in this Subpoena shall be provided within twenty days of the date this Subpoena is served on WFA, unless otherwise agreed by counsel for WFA and counsel for BNSF Railway Company ("BNSF"). WFA shall produce copies of responsive documents to BNSF's counsel, Samuel M. Sipe, Jr., at the offices of Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036.

2. Responsive documents that are confidential or highly confidential may be produced under the terms of the Board's January 13, 2012 Protective Order in the above-captioned proceeding.

3. You are required to produce all responsive documents in Your possession, custody, or control.

4. You are required to produce responsive documents created on or after November 1, 2009.

DEFINITIONS

1. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

2. “Coal Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

3. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30.

4. “You” and “Your” refer to WFA, as well as its employees, agents, and all others acting (or who act or have acted) on its behalf.

REQUESTS FOR PRODUCTION

1. Please produce all documents that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal or coal dust that is lost during handling or storage of coal, including handling or storage of coal at stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Loading Rule.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

SUBPOENA TO WISCONSIN PUBLIC SERVICE CORPORATION

Pursuant to 49 U.S.C. § 721 and 49 C.F.R. § 1113.2, the Surface Transportation Board ("Board") hereby issues this Subpoena directing Wisconsin Public Service Corporation ("WPS") to respond to the Requests for Production of Documents set forth herein for use in the above-captioned proceeding.

INSTRUCTIONS

1. The documentary evidence requested in this Subpoena shall be provided within twenty days of the date this Subpoena is served on WPS, unless otherwise agreed by counsel for WPS and counsel for BNSF Railway Company ("BNSF"). WPS shall produce copies of responsive documents to BNSF's counsel, Samuel M. Sipe, Jr., at the offices of Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, D.C. 20036.

2. Responsive documents that are confidential or highly confidential may be produced under the terms of the Board's January 13, 2012 Protective Order in the above-captioned proceeding.

3. You are required to produce all responsive documents in Your possession, custody, or control.

4. You are required to produce responsive documents created on or after November 1, 2009.

DEFINITIONS

1. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

2. “Coal Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

3. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30.

4. “You” and “Your” refer to WPS, as well as its employees, agents, and all others acting (or who act or have acted) on its behalf.

REQUESTS FOR PRODUCTION

1. Please produce all documents that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal or coal dust that is lost during handling or storage of coal, including handling or storage of coal at stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Loading Rule.

Exhibit 2

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
WESTERN COAL TRAFFIC LEAGUE**

BNSF Railway Company ("BNSF"), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Western Coal Traffic League ("WCTL"). BNSF requests that WCTL serve its written objections and answers by January 16, 2012, and that WCTL produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with WCTL to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time WCTL responds to these discovery requests. BNSF requests that WCTL promptly contact BNSF's undersigned counsel should WCTL have any questions regarding the meaning or scope of any of these discovery requests, the nature of the

information and documents responsive to them, or the procedure for producing responsive material.

DEFINITIONS

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.
2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.
3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.
4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.
5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. "Joint Line" means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF's and Union Pacific Railroad Company's independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Member Company” means an entity of any kind that is a member of WCTL.

10. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

11. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

12. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

13. “You” and “Your” refer to WCTL, as well as its committees, subcommittees, Member Companies, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

14. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not

limited to movements of coal over the Joint Line or over BNSF's lines in the Black Hills Subdivision.

INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.

2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.

3. You are required to produce documents in the possession, custody, or control of You or Your Member Companies.

4. "And"/"Or" shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.

5. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.

6. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.

7. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

8. "Identify" as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

9. "Identify" as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

10. "Identify" as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

(a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;

and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

INTERROGATORIES

1. Please identify "the material concerning the[] test results and procedures [underlying the Coal Dust Loading Rule] that is available," as referred to at page 2 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation.

2. Please explain the basis for Your statement that "the material concerning the[] test results and procedures [underlying the Coal Dust Loading Rule] that is available indicates that the results and procedures are fatally flawed," as referred to at page 2 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation.

3. Please identify and explain the basis for Your statement that "BNSF has hinted strongly in the past that it would refuse service" to shippers who do not comply with the Coal Dust Loading Rule, as referred to at page 8 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation.

4. Please identify any studies or analyses that You or a Member Company are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

5. Please explain the basis for Your statement that the estimated cost of complying with the Coal Dust Loading Rule is “in the \$50 million to \$150 million range annually,” as referred to at page 24 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation and at page 4 of the August 4, 2011 Verified Statement of Duane L. Richards.

6. Please describe the formation, organization, and operation of WCTL, including but not limited to:

(a) the type of entity (association, corporation, or other type of entity), if any, that WCTL is organized as;

(b) the jurisdiction, if any, where WCTL has filed any organizational documents;

(c) the identity of WCTL’s Member Companies;

(d) the frequency of meetings held by WCTL; and

(e) the services provided by WCTL to Member Companies, other than participating in litigation.

7. Please identify each Member Company that has caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

8. Please identify each Member Company that has caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

9. Please describe arrangements that any of Your Member Companies have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

10. Please describe arrangements that any of Your Member Companies have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

11. Please describe requests made by any of Your Member Companies to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

12. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by any of Your Member Companies to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You, a Member Company, or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You or a Member Company and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans or the plans of Your Member Companies to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all formation and organizational documents regarding WCTL, including but not limited to articles of incorporation, certificates of registration, and by-laws.

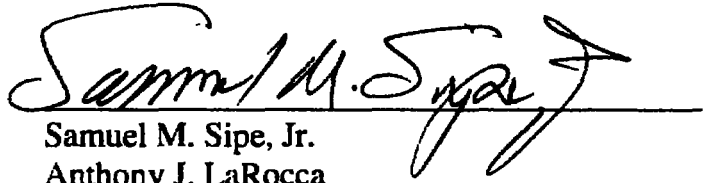
10. Please produce all documents that refer or relate to communications between You or a Member Company and any Person regarding the Coal Dust Loading Rule.

11. Please produce all documents supporting, contravening, or otherwise referring or relating to Your statement that “the material concerning the[] test results and procedures [underlying the Coal Dust Loading Rule] that is available indicates that the results and procedures are fatally flawed,” as referred to at page 2 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation.

12. Please produce all documents supporting, contravening, or otherwise referring or relating to Your statement that the estimated cost of complying with the Coal Dust Loading Rule is “in the \$50 million to \$150 million range annually,” as referred to at page 24 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation and page 4 of the August 4, 2011 Verified Statement of Duane L. Richards.

13. Please produce all documents identified in Your responses to BNSF’s Interrogatories, and all documents that contain facts upon which Your responses to BNSF’s Interrogatories are based.

Respectfully submitted,

A handwritten signature in black ink, reading "Samuel M. Sipe, Jr.", written over a horizontal line.

Richard E. Weicher
Jill K. Mulligan
BNSF RAILWAY COMPANY
2500 Lou Menk Drive
Fort Worth, TX 76131
(817) 352-2353

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Kathryn J. Gainey
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 429-3000

ATTORNEYS FOR
BNSF RAILWAY COMPANY

December 30, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter
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*Counsel for Western Coal Traffic League,
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Electric Institute, and National Rural Electric
Cooperative Association*

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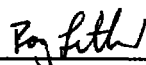
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Attorney for Ameren Missouri

*Counsel for Arkansas Electric Cooperative
Corporation*



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Exhibit 3

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**COAL SHIPPERS' FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION
OF DOCUMENTS TO BNSF RAILWAY COMPANY**

Pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, the Western Coal Traffic League ("WCTL"), American Public Power Association, Edison Electric Institute, and National Rural Electric Cooperative Association (collectively "Coal Shippers") submit the following First Set of Interrogatories and Requests for Production of Documents to BNSF Railway Company ("BNSF"). Coal Shippers request that BNSF serve its written objections and written answers by January 9, 2012. Coal Shippers also request that copies of all responsive documents be produced and delivered to the offices of Slover & Loftus LLP, 1224 Seventeenth St., N.W., Washington, D.C. 20036 on a rolling basis, with full production completed by January 30, 2012. Coal Shippers are prepared to cooperate with BNSF to facilitate the expeditious production of documents with the minimum practicable burden.

I.

DEFINITIONS

The following defined terms are used herein (whether capitalized or not):

1. “Analyses” means any studies, reports, memoranda, summaries, statistical compilations, presentations, reviews, audits, and other types of written, printed, or electronic submissions of information.
2. “And,” “or” and/or “each” shall be construed in the disjunctive or conjunctive as necessary in order to bring within the scope of each Interrogatory or Request all responsive information or documents which otherwise might be construed as outside the scope of the Interrogatory or Request. All use of the masculine gender shall be deemed to include the feminine.
3. “Assailed Tariff Item” means Item 100 of BNSF Price List 6041-B, including Appendices A and B thereto, as issued on July 14, 2011 and amended on July 20, 2011, September 15, 2011, September 19, 2011, and September 26, 2011, and any subsequent iterations thereof.
4. “Black Hills Sub-Division” means the line of railroad between Edgemont, South Dakota and West Gillette, Wyoming.
5. “BNSF” means the BNSF Railway Company, its present or former employees, agents, counsel, officers, directors, advisors, consultants, divisions, departments, predecessors (including but not limited to the Burlington Northern Railroad Company (“BN”) and The Atchison, Topeka and Santa Fe Railway Company and their parent companies), parent and/or holding companies, subsidiaries, or any of them, and all

other persons acting (or who have acted) on its behalf, including any contractors retained to perform services in connection with coal transportation services relating to the coal movements affected by this proceeding.

6. “BNSF Reply” means the Reply to WCTL’s Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation that BNSF filed in STB Finance Docket No. 35305 on August 23, 2011.

7. “Bobb Statement” means the Verified Statement of Mr. Stevan B. Bobb that BNSF filed as part of the BNSF Reply.

8. “Communication(s)” means the transmittal or exchange of information of any kind in any form.

9. “Document(s)” means all writings or visual displays of any kind, whether generated by hand or mechanical means, including, without limitation, photographs, lists, memoranda, reports, notes, letters, phone logs, e-mails, contracts, drafts, workpapers, computer printouts, computer tapes, telecopies, telegrams, newsletters, notations, books, affidavits, statements (whether or not verified), speeches, summaries, opinions, studies, analyses, evaluations, statistical records, proposals, treatments, outlines, any electronic or mechanical records or representations (including physical things such as, but not limited to, computer disks or dvds) and all other materials of any tangible medium or expression, in BNSF’s current or prior possession, custody, or control. A draft or non-identical copy is a separate document within the meaning of this term.

10. “Identify” or “describe” mean:

- (a) describe fully by reference to underlying facts rather than by reference to ultimate facts or conclusions of fact or law;
- (b) where applicable, particularize as to time, place, and manner;
- (c) set forth all relevant facts necessary to the complete understanding of the act, process, event, or thing in question;
- (d) as to a person (as defined): name, business and residence address(es), last known telephone number, occupation, job title, and dates so employed; and, if not an individual, state the type of entity, last known address of its principal place of business, and the names of its officers and directors; to the extent that any of the above information is not available, please state all other available means of identifying and locating such person;
- (e) as to a document (as defined): the type of document (letter, memorandum, printed version of an electronic mail message, printed version of a facsimile, etc.), the identity of the author or originator, the date authored or originated, the identity of each person to whom the original or a copy was addressed or delivered, the identity of such person known or reasonably believed by you to have present possession, custody, or control thereof, and a brief description of the subject matter thereof;
- (f) as to a communication (as defined): the date of the communication, the type of communication (telephone conversation, electronic mail message, meeting, etc.), the place where the communication took place, the identity of the person who made the communication, the identity of each person who received the communication and of each person present when it was made, and the subject matter discussed; and
- (g) as to a meeting: the date of the meeting, the place of the meeting, each person invited to attend, each person who attended, and the subject matter discussed.

11. "Joint Line" refers to a north-south rail line that begins in the south at a junction with the UP rail network called Shawnee Junction, Wyoming and extends north to a junction with a BNSF rail line near Gillette, Wyoming.

12. "Person" means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions or other legal entities, as the case may be.

13. "PRB" means the Powder River Basin located in Wyoming and Montana.

14. "Related," or "related to," and "relating to" mean and include discussing, describing, referring to, reflecting, explaining, analyzing, or in any way pertaining to, in whole or in part, the subject matter of the Interrogatory or Request.

15. "TSM" or "TSM E-Sampler" means a track station or track side monitor designed and used to collect dust event data and to measure whatever is drawn into it.

16. "UP" means the Union Pacific Railroad Company, and references to its predecessors, including, without limitation, Western Railroad Properties, Inc., CNW, Missouri Pacific Railroad Company, Western Pacific Railroad Company, Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and the Denver and Rio Grande Western Railroad Company.

17. "UP Circular 6603-C" means the UP Circular "Applying on Loading, Handling, Accessorial Charges, Fuel Surcharges and General Rules for Coal Trains Originating in Wyoming," with Item Nos. 215 and 216 regarding recommended and required loading measures to mitigate coal dust issued on September 8, 2011, and any subsequent iterations thereof.

18. "UP Train" shall mean a coal train that UP originates from a Joint Line mine.

II.

INSTRUCTIONS

BNSF is requested to conform to the following instructions in responding to these Interrogatories and Requests.

1. Each paragraph below shall operate and be construed independently.

Unless otherwise indicated, no paragraph limits the scope of any other paragraph.

2. Where these discovery requests seek data in a computer-readable format, machine-readable format, or in its native format, this data is defined as an electronic file which contains structured, relational data, and is managed within a commercially available and relational database system (for example Microsoft, Oracle, IBM) and is readable via commercially available and standard Microsoft Windows software API (Application Programming Interfaces) methods to include Open Database Connectivity (ODBC) implementations thereby making the data accessible independent of the host system.

If the source table is stored within a non-relational system, such as a “flat file,” or a custom system (not commercially available) provide the data in standard sequential or delimited text files. The text files will be MS-DOS or MS-Windows compatible text format.

- (a) For each computer file supplied provide:
 - i. The name and description of the source database or other file from which the records in the computer file were selected (stating whether the file is an original extract from a line of business transactional or data warehouse computer system, or if the provided file is an extract,

or report, created specifically for this request) including a graphic or textural representation of the database relational model for each system to include all named tables of data within the system's relational model, and for every table provide a list of fields, primary keys, foreign keys, list relational links to other tables and fields, and filters, if any, associated to the relational links. Include all related tables, and all fields within each included table. List the fields which define a unique record (row) for each table, or state if the table does not require unique row differentiators or primary keys. For code tables, provide the code, and associated data elements in a discreet list (no duplicates);

- ii. A description of how the records in the file produced were selected;
 - iii. The original table names (no aliases) and original field names to match the provided systems' data structures within each computer program (in native software and text file) and intermediate file used in deriving the files produced if the files produced are flat files. If the files produced are commercially available relational database files, provide the method used and code (if code was created) used to export the data to this relational format, including the operating system and version under which the final text files or relational tables were produced; and
 - iv. A relational diagram defining relationships between tables, with all fields, listing primary keys, foreign keys, with each table or file provided as listed in the relational diagram. Also provide all table indexes, and index files, which define the index to be clustered or non-clustered.
- (b) For each field in each computer database file provide a complete, standard data structure, including:
- i. The name of the field including its source table name, and if different from the LOB (line of business) or off-line analytical system field name, provide all field name incarnations so that there is a linkage between the provided field name and the original source field name and source table, and source application/system. Also provide the "Synonymous Name," that being a single word or multiple words that differ from the field name, but represents the same data element using alternative or more descriptive terminology. Also provide the "Context," *i.e.*, a designation or description of the application environment in which the data item (or field) is applied

or from which it is originally derived (its origin);

- ii. The starting and ending positions of the field if the file is a non-delimited flat file, or if the file is delimited, verify that the delimiter is inserted at the end of each field and the delimiter is not contained, as data, within any data cell (provide row terminators and line feed codes), otherwise, if the provided data set is a relational database “table,” export the table structure into a separate ANSI SQL 92 code or text file;
- iii. A detailed definition of the field and whether this field is the record’s (or row’s) unique identifier, or it is one of many fields which create a unique row (list them);
- iv. A detailed description of the data in the field, including an explanation of what they are used for and also provide all related index files in SQL code format or text files, if any;
- v. The type of data in the field, *i.e.*, whether numeric, character, alphanumeric, number of digits, number of significant digits, whether signed or unsigned (*i.e.*, negatives allowed) and whether this field is Unicode, or contains any constraints, or requirements to be Non-Null, or non-blank;
- vi. If the values in a field are terms or abbreviations, a list of all terms or abbreviations used with detailed definitions of each and provide the approved domain (range of values if indeterminate) or list of values permitted if determinate. Also provide minimum and maximum values, including whether the values are Null, hidden, or specific ASCII or ISO codes. Include the character encoding or software vendor’s code page, for each table if any;
- vii. An indication of whether the data in the field are packed or compressed;
- viii. If the data in the field are packed or compressed, the type of packing or compression:
 - (1) Zoned with low-order sign;
 - (2) Binary with LSB first;
 - (3) Binary with MSB first;
 - (4) Packed with high-order sign;
 - (5) Packed with low-order sign;

- (6) Packed with no sign; and
- (7) Other (specify and provide detailed instructions for unpacking);

- ix. If the data files and tables originate on a non-Microsoft Windows operating system, state the original operating system and convert to Microsoft Windows format; and
- x. For data or other electronic information submissions where the source system does not have a 32-bit operating system, verify that all data and files are computer-readable on a 32-bit operating system.

3. If an answer or the production of any responsive document is withheld under 49 C.F.R. §§ 1114.26(a) or 1114.30(a)(1) on the basis of a claimed privilege or attorney work product, then for each such answer or document, provide the following information: its date, type (*e.g.*, letter, meeting, notes, memo, etc.), author (note if author is an attorney), addressee(s)/recipient(s) (note if addressee(s) or recipient(s) is an attorney), general subject matter, and basis for withholding the information.

4. If the production of any requested document or answer to any interrogatory is withheld for claimed grounds other than privilege or attorney work product, state with specificity the basis for such withholding.

5. BNSF is requested to supplement its responses to these Interrogatories and Document Production Requests and produce responsive information or documents obtained or created at any time and is further requested to supplement its responses in the manner provided in 49 C.F.R. § 1114.29.

6. If a responsive document was, but is no longer, in BNSF's possession, custody, or control, describe what disposition was made of it.

7. Please organize the documents produced in such a manner that Coal Shippers may readily determine which documents are being produced by BNSF in response to each specific Document Production Request. If no document is produced in response to any specific Request, please so indicate in the response.

8. Color copies of documents are to be produced where color is necessary to interpret or understand the contents of the documents.

9. In the event BNSF objects to producing any documents on grounds that BNSF does not maintain the information described in the form or format requested by Coal Shippers, please produce the documents which contain such information in whatever form or format BNSF does maintain such information.

10. Coal Shippers reserve the right to file supplemental and/or follow-up Interrogatories, Document Production Requests, and other discovery, as necessary or appropriate.

11. Unless otherwise specified, these discovery requests cover the time period from January 1, 2005; provided, however, BNSF is not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that WCTL and BNSF filed with the Board on December 20, 2011.

III.

INTERROGATORIES

1. Please describe the enforcement measures BNSF has implemented, or plans to implement, or has considered, if a shipper subject to the Assailed Tariff Item does not comply with the provisions set forth in the Assailed Tariff Item.

2. Please describe all communications between BNSF and UP concerning coal dust mitigation including communications relating to: (a) the Assailed Tariff Item; (b) the "Joint Line operating rule" referenced at page 8 of the Bobb Statement; and (c) Items 215 and/or 216 in UP Circular 6603-C.
3. Please describe the enforcement measures BNSF has implemented, or plans to implement, or has considered, relating to UP if a UP Train does not comply with the "Joint Line operating rule" referenced at page 8 of the Bobb Statement.
4. Please describe the enforcement measures BNSF has implemented, or plans to implement, or has considered relating to a shipper whose coal is moving in a UP Train if the UP Train does not comply with the "Joint Line operating rule" referenced at page 8 of the Bobb Statement.
5. Please describe how BNSF is, or plans to, determine whether a train is in compliance with paragraph 2 of the Assailed Tariff Item if the train is: (a) not treated with "an acceptable topper agent" as provided under paragraph 3 of the Assailed Tariff Item; and (b) no "other method of coal dust suppression" approved by BNSF as provided in paragraph 4 of the Assailed Tariff Item is applied to the train.
6. Please describe what "adverse[] impact[s]" BNSF is referring to in the last sentence of paragraph 4 in the Assailed Tariff Item.
7. Please describe all topper testing of Wyoming- or Montana-origin coal trains that BNSF is aware of, including but not limited to, the "recent tests carried out in the PRB" referenced in paragraph 3.B. of the Assailed Tariff Item.
8. For the "recent tests carried out in the PRB" referenced in paragraph 3.B. of the Assailed Tariff Item, please describe:
 - (a) the cut point used in the passive collectors to distinguish between the smaller particles that would exit the collectors and the larger particles that would drop into the devices' collector boxes;
 - (b) any wind-tunnel studies performed with regard to the design of the passive collectors;
 - (c) all steps taken to substantiate that all of the material collected in the passive collectors actually was coal;
 - (d) all testing, calculations, or other engineering data establishing that the concentration of particulate matter in the entrained air flow sampled by the passive collectors was the same as the concentration in the entire air flow over the top of a railcar equipped with a passive collector;

- (e) all equipment used to perform field measurements of sample mass;
 - (f) whether the methods involved regular calibration traceable to a NIST standard;
 - (g) the degree of precision associated with field measurements of sample mass;
 - (h) the estimate of error associated field measurements of sample mass;
 - (i) the field procedures for sample handling and measurement;
 - (j) the collector cleaning procedures;
 - (k) the procedures for conditioning passive collector samples;
 - (l) the procedures followed to determine which railcars would be equipped with passive collectors;
 - (m) the manner, if any, in which data from BNSF's Rail Transport Emission Profiling System was used to supplement and/or normalize the passive collector data; and
 - (n) any statistical analyses concerning the passive collector tests.
9. If BNSF contends that it should not bear any costs associated with compliance with the Assailed Tariff Item, please describe the bases for this contention.
10. Please describe how BNSF is, or plans to, determine a train's compliance with the profiling requirements set forth in paragraph 3.A. of the Assailed Tariff Item.
11. For each individual TSM E-Sampler device located along the Joint Line or the Black Hills Subdivision, please identify: (a) the precise location of the device (including both the specific milepost and a precise description of the location of the device relative to the track); (b) the serial number of the device (or other coding used by BNSF for purposes of identification); and (c) the date of installation of the device in its present location.
12. If BNSF intends to use TSM E-Samplers in any way to measure train compliance with the standards set forth in the Assailed Tariff Item, please describe how compliance will be measured.
13. If BNSF intends to use devices other than TSM E-Samplers in any way to measure train compliance with the Assailed Tariff Item, please identify the devices and describe how compliance will be measured.
14. Please describe why BNSF selected the "85 percent" reduction standard referenced in paragraph 2 of the Assailed Tariff Item.
15. Please describe why BNSF selected the "85%" reduction standard referenced in paragraph 3.B. of the Assailed Tariff Item.

16. Please identify the percentage by which profiling in accordance with paragraph 3.A. of the Assailed Tariff Item reduces coal dust emissions from loaded coal cars as compared to loss in transit of coal dust from coal cars where no remedial measures have been taken.
17. Please identify, by name, title and address, the person(s) who prepared each answer to these Interrogatories and who reviewed and selected the documents to be produced in response to each of the following Requests for Production of Documents.

IV.

REQUESTS FOR PRODUCTION

1. Please produce all documents relating to the enforcement measures BNSF has implemented, or plans to implement, or has considered, if a shipper subject to the Assailed Tariff Item does not comply with the provisions set forth in the Assailed Tariff Item.
2. Please produce the "Joint Line operating rule" referenced at page 8 of the Bobb Statement.
3. Please produce all documents containing communications between BNSF and UP concerning coal dust mitigation including communications relating to: (a) the Assailed Tariff Item; (b) the "Joint Line operating rule" referenced at page 8 of the Bobb Statement; and (c) Items 215 and/or 216 in UP Circular 6603-C.
4. Please produce all documents concerning the enforcement measures BNSF has implemented, or plans to implement, or has considered, relating to UP if a UP Train does not comply with the "Joint Line operating rule" referenced at page 8 of the Bobb Statement.
5. Please produce all documents concerning the enforcement measures BNSF has implemented, or plans to implement, or has considered relating to a shipper whose coal is moving in a UP Train if the UP Train does not comply with the "Joint Line operating rule" referenced at page 8 of the Bobb Statement.
6. Please produce all pricing authorities (including contracts) containing coal dust mitigation provisions applicable to coal originating in Wyoming and Montana.
7. Please produce all documents relating to how BNSF is, or plans to, determine whether a train is in compliance with paragraph 2 of the Assailed Tariff Item if the

train is: (a) not treated with “an acceptable topper agent” as provided under paragraph 3 of the Assailed Tariff Item; and (b) no “other method of coal dust suppression” approved by BNSF as provided in paragraph 4 of the Assailed Tariff Item is applied to the train.

8. Please produce all documents relating to the “adverse[] impact[s]” BNSF is referring to in the last sentence of paragraph 4 of the Assailed Tariff Item.
9. Please produce all analyses of coal dust emissions from coal cars.
10. Please produce all documents relating to topper testing of Wyoming- or Montana-origin coal trains that BNSF is aware of, including but not limited to, the “recent tests carried out in the PRB” referenced in paragraph 3.B. of the Assailed Tariff Item.
11. Please produce all analyses relating to costs to comply with the Assailed Tariff Item.
12. Please produce all documents relating to how BNSF is determining, or how BNSF plans to determine, a train’s compliance with the profiling requirements set forth in paragraph 3.A. of the Assailed Tariff Item.
13. Please produce all analyses relating to the impact of the Assailed Tariff Item on BNSF’s costs of rail service.
14. Please produce all documents relating to communications BNSF has had with coal shippers concerning the Assailed Tariff Item.
15. Please produce all documents relating to communications BNSF has had: (a) with surfactant suppliers; and (b) with suppliers of any other method of coal dust suppression.
16. Please produce all documents relating to communications BNSF has had with coal suppliers relating to the Assailed Tariff Item.
17. If BNSF intends to use TSM E-Samplers in any way to measure train compliance with the standards set forth in the Assailed Tariff Item, please provide all analyses relating to the TSM E-Samplers, including all computer programs used to manipulate or otherwise analyze TSM E-Sampler output.
18. If BNSF intends to use devices other than TSM E-Samplers in any way to measure train compliance with the Assailed Tariff Item, please provide all analyses relating

to the devices, including all computer programs used to manipulate or otherwise analyze the devices' output.

19. Please produce all analyses related to BNSF's selection of the "85 percent" reduction standard referenced in paragraph 2 of the Assailed Tariff Item.
20. Please produce all analyses related to BNSF's selection of the "85%" reduction standard referenced in paragraph 3.B. of the Assailed Tariff Item.
21. Please produce all analyses relating to reduction in coal dust attributable to the profiling referenced in paragraph 3.A. of the Assailed Tariff Item.
22. Please produce the "[g]uidelines" referenced in paragraph 3.B. of the Assailed Tariff Item.
23. Please produce all documents relating to the "risk to the integrity of the PRB rail infrastructure" referenced at page 18 of BNSF's Reply.
24. Please produce all documents identified in BNSF's answers to Coal Shippers' Interrogatories, above.

Respectfully submitted,

WESTERN COAL TRAFFIC LEAGUE
AMERICAN PUBLIC POWER ASSOCIATION
EDISON ELECTRIC INSTITUTE
NATIONAL RURAL ELECTRIC COOPERATIVE
ASSOCIATION

By: /s/ John H. LeSeur

William L. Slover

John H. LeSeur

Andrew B. Kolesar III

Peter A. Pfohl

Slover & Loftus LLP

1224 Seventeenth Street, N.W.

Washington, D.C. 20036

Of Counsel:

Slover & Loftus LLP

1224 Seventeenth Street, N.W.

Washington, D.C. 20036

(202) 347-7170

Dated: December 23, 2011

Their Counsel

CERTIFICATE OF SERVICE

I hereby certify that this 23rd day of December, 2011, I have caused copies of the foregoing to be served via email and by hand delivery upon BNSF's outside counsel as follows:

Samuel M. Sipe, Jr., Esq.
Anthony J. LaRocca, Esq.
Kathryn J. Gainey, Esq.
Steptoe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036

/s/ Andrew B. Kolesar III
Andrew B. Kolesar III

Exhibit 4

STEPTOE & JOHNSON ^{LLP}

ATTORNEYS AT LAW

Samuel M. Sipe Jr.
202 429 6486
ssipe@steptoe.com

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
Tel 202 429 3000
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steptoe.com

December 30, 2011

Via HAND DELIVERY

William L. Slover
John H. LeSeur
Andrew B. Kolesar III
Peter A. Pfohl
Slover & Loftus LLP
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

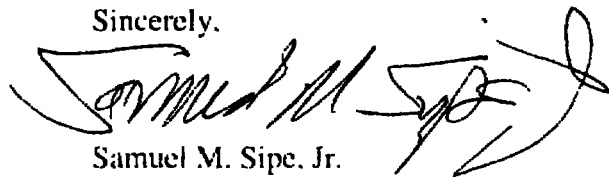
Re: ***Reasonableness of BNSF Railway Company Coal Dust Mitigation Tariff Provisions***
STB Finance Docket No. 35557

Dear Counsel,

Enclosed are BNSF's First Set of Interrogatories and Requests for Production of Documents to Western Coal Traffic League and to each of the seventeen WCTL members listed in WCTL's October 28, 2011 filing in STB Finance Docket No. 35506. The discovery requests to WCTL define WCTL as including its members. If WCTL's interrogatory responses and document productions include responses and productions made on behalf of its members, then it is unnecessary for the individual WCTL members to respond separately.

Please let us know if you have any questions.

Sincerely,



Samuel M. Sipe, Jr.

Enclosures

cc: Parties of record

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
AMEREN ENERGY FUELS & SERVICES COMPANY**

BNSF Railway Company ("BNSF"), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Ameren Energy Fuels & Services Company ("AFS"). BNSF requests that AFS serve its written objections and answers by January 16, 2012, and that AFS produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with AFS to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League ("WCTL") to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time AFS responds to these discovery requests. BNSF requests that AFS promptly contact BNSF's undersigned counsel should AFS have any questions regarding the meaning or scope of

any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

DEFINITIONS

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.
2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.
3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.
4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.
5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. "Joint Line" means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF's and Union Pacific Railroad Company's independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to AFS, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

INTERROGATORIES

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

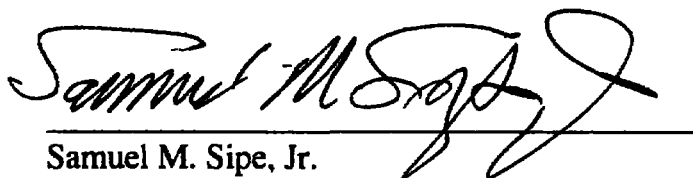
- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Samuel M. Sipe, Jr.", written over a horizontal line.

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Kathryn J. Gainey
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(202) 429-3000

ATTORNEYS FOR
BNSF RAILWAY COMPANY

December 30, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter
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*Counsel for Western Coal Traffic League,
American Public Power Association, Edison
Electric Institute, and National Rural Electric
Cooperative Association*

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Michael L. Rosenthal
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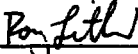
Counsel for Union Pacific Railroad Company

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Attorney for Ameren Missouri

*Counsel for Arkansas Electric Cooperative
Corporation*



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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
ARIZONA ELECTRIC POWER COOPERATIVE, INC.**

BNSF Railway Company ("BNSF"), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Arizona Electric Power Cooperative, Inc. ("AEPCO"). BNSF requests that AEPCO serve its written objections and answers by January 16, 2012, and that AEPCO produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with AEPCO to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League ("WCTL") to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time AEPCO responds to these discovery requests. BNSF requests that AEPCO promptly contact BNSF's undersigned counsel should AEPCO have any questions regarding the meaning

or scope of any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

DEFINITIONS

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. “Document(s)” is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. “Joint Line” means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF’s and Union Pacific Railroad Company’s independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to AEPCO, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. "Identify" as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. "Identify" as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. "Identify" as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

INTERROGATORIES

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

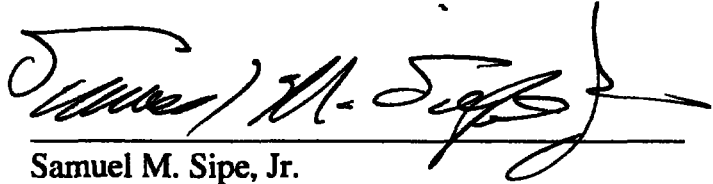
- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.
Anthony J. LaRocca
Kathryn J. Gainey
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 429-3000

Richard E. Weicher
Jill K. Mulligan
BNSF RAILWAY COMPANY
2500 Lou Menk Drive
Fort Worth, TX 76131
(817) 352-2353

ATTORNEYS FOR
BNSF RAILWAY COMPANY

December 30, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter
Executive Director
National Coal Transportation Association
4 Meadow Lark Lane, #100
Littleton, CO 80127
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John H. LeSeur
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Washington, DC 20036
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,
American Public Power Association, Edison
Electric Institute, and National Rural Electric
Cooperative Association*

Christopher S. Perry
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Michael L. Rosenthal
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1201 Pennsylvania Avenue, NW
Washington, DC 20004-2401
E-mail: mrosenthal@cov.com

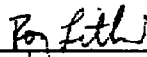
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Attorney for Ameren Missouri

*Counsel for Arkansas Electric Cooperative
Corporation*



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1330 Connecticut Ave, N.W.
Washington, DC 20036
(202) 429-3000

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
AUSTIN ENERGY**

BNSF Railway Company ("BNSF"), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Austin Energy. BNSF requests that Austin Energy serve its written objections and answers by January 16, 2012, and that Austin Energy produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with Austin Energy to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League ("WCTL") to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time Austin Energy responds to these discovery requests. BNSF requests that Austin Energy promptly contact BNSF's undersigned counsel should Austin Energy have any questions regarding the meaning or scope of any of these discovery requests, the nature

of the information and documents responsive to them, or the procedure for producing responsive material.

DEFINITIONS

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.
2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.
3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.
4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.
5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. "Joint Line" means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF's and Union Pacific Railroad Company's independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to Austin Energy, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

INTERROGATORIES

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

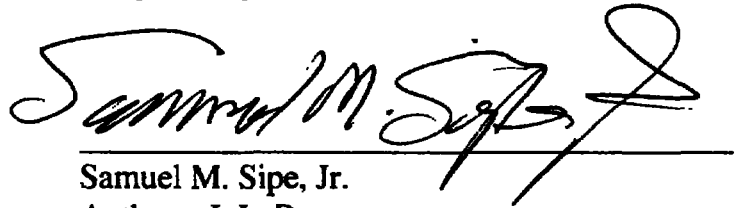
- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Samuel M. Sipe, Jr.", written over a horizontal line.

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Washington, DC 20036
(202) 429-3000

ATTORNEYS FOR
BNSF RAILWAY COMPANY

December 30, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter
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*Counsel for Western Coal Traffic League,
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Electric Institute, and National Rural Electric
Cooperative Association*

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Michael L. Rosenthal
Covington & Burling LLP
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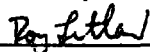
Counsel for Union Pacific Railroad Company

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Attorney for Ameren Missouri

*Counsel for Arkansas Electric Cooperative
Corporation*



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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
CLECO CORPORATION**

BNSF Railway Company ("BNSF"), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to CLECO Corporation ("CLECO"). BNSF requests that CLECO serve its written objections and answers by January 16, 2012, and that CLECO produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with CLECO to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League ("WCTL") to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time CLECO responds to these discovery requests. BNSF requests that CLECO promptly contact BNSF's undersigned counsel should CLECO have any questions regarding the meaning

or scope of any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

DEFINITIONS

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. "Joint Line" means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF's and Union Pacific Railroad Company's independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to CLECO, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. "Identify" as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. "Identify" as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. "Identify" as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

INTERROGATORIES

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

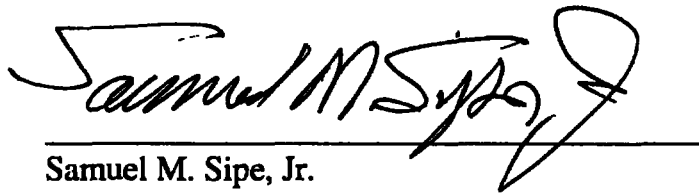
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Samuel M. Sipe, Jr.", written over a horizontal line.

Richard E. Weicher
Jill K. Mulligan
BNSF RAILWAY COMPANY
2500 Lou Menk Drive
Fort Worth, TX 76131
(817) 352-2353

Samuel M. Sipe, Jr.
Anthony J. LaRocca
Kathryn J. Gainey
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 429-3000

ATTORNEYS FOR
BNSF RAILWAY COMPANY

December 30, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter
Executive Director
National Coal Transportation Association
4 Meadow Lark Lane, #100
Littleton, CO 80127
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur
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1224 Seventeenth Street, N.W.
Washington, DC 20036
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*Counsel for Western Coal Traffic League,
American Public Power Association, Edison
Electric Institute, and National Rural Electric
Cooperative Association*

Christopher S. Perry
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Michael L. Rosenthal
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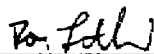
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Attorney for Ameren Missouri

*Counsel for Arkansas Electric Cooperative
Corporation*



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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
CPS ENERGY**

BNSF Railway Company ("BNSF"), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to CPS Energy. BNSF requests that CPS Energy serve its written objections and answers by January 16, 2012, and that CPS Energy produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

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information and documents responsive to them, or the procedure for producing responsive material.

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3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.
4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.
5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. "Joint Line" means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF's and Union Pacific Railroad Company's independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to CPS Energy, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

INTERROGATORIES

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

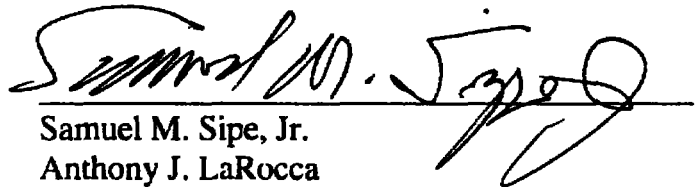
- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Samuel M. Sipe, Jr.", written over a horizontal line.

Samuel M. Sipe, Jr.
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(817) 352-2353

ATTORNEYS FOR
BNSF RAILWAY COMPANY

December 30, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter
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*Counsel for Western Coal Traffic League,
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Cooperative Association*

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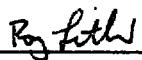
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Attorney for Ameren Missouri

*Counsel for Arkansas Electric Cooperative
Corporation*



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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
ENTERGY SERVICES, INC.**

BNSF Railway Company ("BNSF"), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Entergy Services, Inc. ("ESI"). BNSF requests that ESI serve its written objections and answers by January 16, 2012, and that ESI produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with ESI to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League ("WCTL") to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time ESI responds to these discovery requests. BNSF requests that ESI promptly contact BNSF's undersigned counsel should ESI have any questions regarding the meaning or scope of any of these

discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

DEFINITIONS

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. "Joint Line" means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF's and Union Pacific Railroad Company's independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to ESI, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

INTERROGATORIES

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

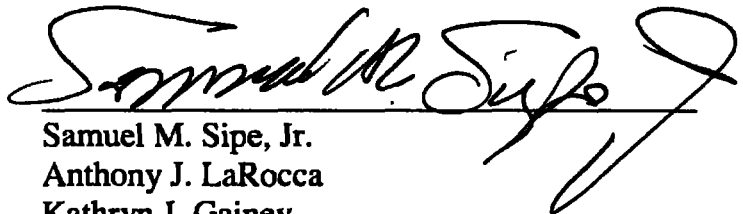
- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.
Anthony J. LaRocca
Kathryn J. Gainey
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 429-3000

Richard E. Weicher
Jill K. Mulligan
BNSF RAILWAY COMPANY
2500 Lou Menk Drive
Fort Worth, TX 76131
(817) 352-2353

ATTORNEYS FOR
BNSF RAILWAY COMPANY

December 30, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter
Executive Director
National Coal Transportation Association
4 Meadow Lark Lane, #100
Littleton, CO 80127
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur
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1224 Seventeenth Street, N.W.
Washington, DC 20036
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,
American Public Power Association, Edison
Electric Institute, and National Rural Electric
Cooperative Association*

Christopher S. Perry
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1200 New Jersey Avenue, S.E.
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Michael L. Rosenthal
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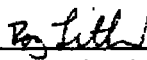
Counsel for Union Pacific Railroad Company

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Attorney for Ameren Missouri

*Counsel for Arkansas Electric Cooperative
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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
KANSAS CITY POWER & LIGHT COMPANY**

BNSF Railway Company ("BNSF"), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Kansas City Power & Light Company ("KCP&L"). BNSF requests that KCP&L serve its written objections and answers by January 16, 2012, and that KCP&L produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with KCP&L to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League ("WCTL") to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time KCP&L responds to these discovery requests. BNSF requests that KCP&L promptly contact BNSF's undersigned counsel should KCP&L have any questions regarding the meaning

or scope of any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

DEFINITIONS

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.
2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.
3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.
4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.
5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. "Joint Line" means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF's and Union Pacific Railroad Company's independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to KCP&L, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

INTERROGATORIES

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

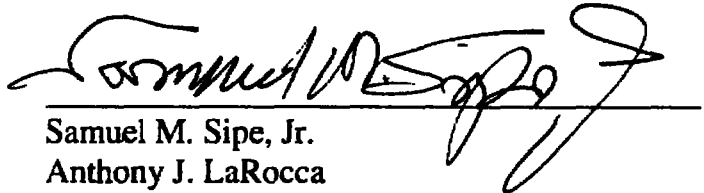
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



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ATTORNEYS FOR
BNSF RAILWAY COMPANY

December 30, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
LOWER COLORADO RIVER AUTHORITY**

BNSF Railway Company ("BNSF"), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Lower Colorado River Authority ("LCRA"). BNSF requests that LCRA serve its written objections and answers by January 16, 2012, and that LCRA produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with LCRA to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League ("WCTL") to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time LCRA responds to these discovery requests. BNSF requests that LCRA promptly contact BNSF's undersigned counsel should LCRA have any questions regarding the meaning or scope of

any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

DEFINITIONS

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.
2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.
3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.
4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.
5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. "Joint Line" means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF's and Union Pacific Railroad Company's independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to LCRA, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

INTERROGATORIES

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

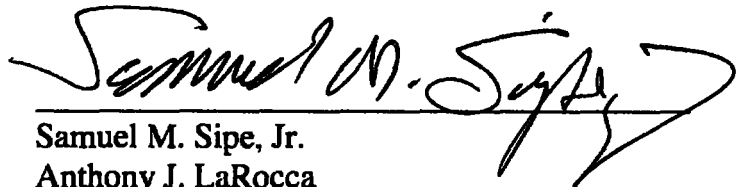
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



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(202) 429-3000

ATTORNEYS FOR
BNSF RAILWAY COMPANY

December 30, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter
Executive Director
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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
MIDAMERICAN ENERGY COMPANY**

BNSF Railway Company ("BNSF"), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to MidAmerican Energy Company ("MidAmerican"). BNSF requests that MidAmerican serve its written objections and answers by January 16, 2012, and that MidAmerican produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with MidAmerican to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League ("WCTL") to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time MidAmerican responds to these discovery requests. BNSF requests that MidAmerican promptly contact BNSF's undersigned counsel should MidAmerican have any questions regarding the meaning or scope of any of these discovery requests, the

nature of the information and documents responsive to them, or the procedure for producing responsive material.

DEFINITIONS

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.
2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.
3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.
4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.
5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. "Joint Line" means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF's and Union Pacific Railroad Company's independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to MidAmerican, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

INTERROGATORIES

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

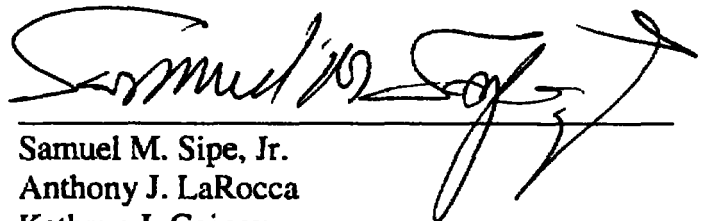
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



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(817) 352-2353

ATTORNEYS FOR
BNSF RAILWAY COMPANY

December 30, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

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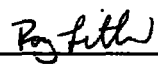
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*Counsel for Arkansas Electric Cooperative
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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
MINNESOTA POWER**

BNSF Railway Company ("BNSF"), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Minnesota Power. BNSF requests that Minnesota Power serve its written objections and answers by January 16, 2012, and that Minnesota Power produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with Minnesota Power to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League ("WCTL") to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time Minnesota Power responds to these discovery requests. BNSF requests that Minnesota Power promptly contact BNSF's undersigned counsel should Minnesota Power have any questions regarding the meaning or scope of any of these discovery

requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

DEFINITIONS

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.
2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.
3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.
4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.
5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. "Joint Line" means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF's and Union Pacific Railroad Company's independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to Minnesota Power, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. "Identify" as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. "Identify" as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. "Identify" as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

INTERROGATORIES

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

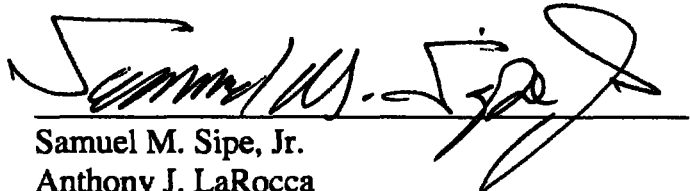
- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Samuel M. Sipe, Jr.', is written over a horizontal line.

Richard E. Weicher
Jill K. Mulligan
BNSF RAILWAY COMPANY
2500 Lou Menk Drive
Fort Worth, TX 76131
(817) 352-2353

Samuel M. Sipe, Jr.
Anthony J. LaRocca
Kathryn J. Gainey
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 429-3000

ATTORNEYS FOR
BNSF RAILWAY COMPANY

December 30, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter
Executive Director
National Coal Transportation Association
4 Meadow Lark Lane, #100
Littleton, CO 80127
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, DC 20036
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,
American Public Power Association, Edison
Electric Institute, and National Rural Electric
Cooperative Association*

Christopher S. Perry
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1200 New Jersey Avenue, S.E.
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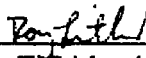
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Attorney for Ameren Missouri

*Counsel for Arkansas Electric Cooperative
Corporation*



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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
NEBRASKA PUBLIC POWER DISTRICT**

BNSF Railway Company ("BNSF"), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Nebraska Public Power District ("NPPD"). BNSF requests that NPPD serve its written objections and answers by January 16, 2012, and that NPPD produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with NPPD to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League ("WCTL") to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time NPPD responds to these discovery requests. BNSF requests that NPPD promptly contact BNSF's undersigned counsel should NPPD have any questions regarding the meaning or scope of

any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

DEFINITIONS

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.
2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.
3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.
4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.
5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. "Joint Line" means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF's and Union Pacific Railroad Company's independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to NPPD, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

INTERROGATORIES

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

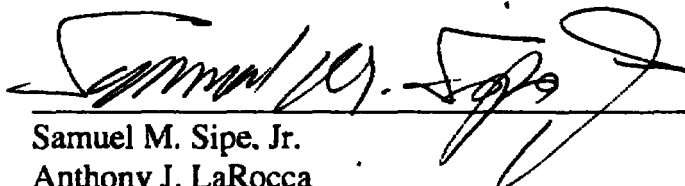
- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



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ATTORNEYS FOR
BNSF RAILWAY COMPANY

December 30, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter
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(202) 429-3000

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
OMAHA PUBLIC POWER DISTRICT**

BNSF Railway Company ("BNSF"), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Omaha Public Power District ("OPPD"). BNSF requests that OPPD serve its written objections and answers by January 16, 2012, and that OPPD produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with OPPD to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League ("WCTL") to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time OPPD responds to these discovery requests. BNSF requests that OPPD promptly contact BNSF's undersigned counsel should OPPD have any questions regarding the meaning or scope of

any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

DEFINITIONS

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. "Joint Line" means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF's and Union Pacific Railroad Company's independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to OPPD, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. "Identify" as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. "Identify" as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. "Identify" as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

INTERROGATORIES

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

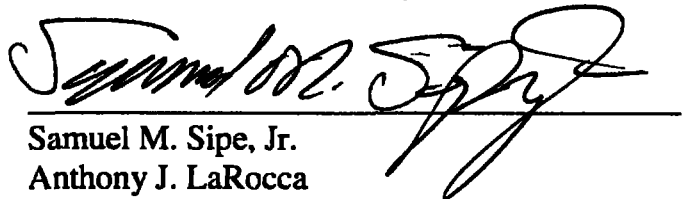
- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.
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2500 Lou Menk Drive
Fort Worth, TX 76131
(817) 352-2353

ATTORNEYS FOR
BNSF RAILWAY COMPANY

December 30, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter
Executive Director
National Coal Transportation Association
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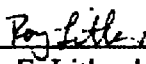
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*Counsel for Arkansas Electric Cooperative
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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
TEXAS MUNICIPAL POWER AGENCY**

BNSF Railway Company ("BNSF"), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Texas Municipal Power Agency ("TMPA"). BNSF requests that TMPA serve its written objections and answers by January 16, 2012, and that TMPA produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with TMPA to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League ("WCTL") to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time TMPA responds to these discovery requests. BNSF requests that TMPA promptly contact BNSF's undersigned counsel should TMPA have any questions regarding the meaning or scope of

any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

DEFINITIONS

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.
2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.
3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.
4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.
5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. "Joint Line" means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF's and Union Pacific Railroad Company's independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to TMPA, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

INTERROGATORIES

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

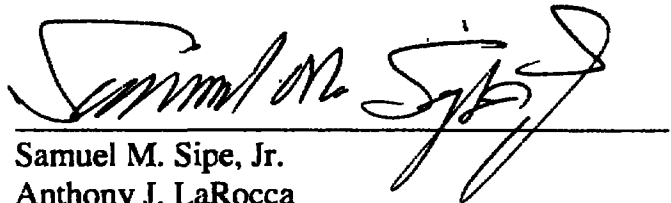
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Samuel M. Sipe, Jr.", written over a horizontal line.

Richard E. Weicher
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Samuel M. Sipe, Jr.
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STEPTOE & JOHNSON LLP
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Washington, DC 20036
(202) 429-3000

ATTORNEYS FOR
BNSF RAILWAY COMPANY

December 30, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter
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Electric Institute, and National Rural Electric
Cooperative Association*

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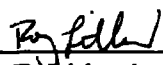
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Attorney for Ameren Missouri

*Counsel for Arkansas Electric Cooperative
Corporation*



Roy E. Litland
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1330 Connecticut Ave, N.W.
Washington, DC 20036
(202) 429-3000

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
WESTERN FARMERS ELECTRIC COOPERATIVE**

BNSF Railway Company ("BNSF"), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Western Farmers Electric Cooperative ("WFEC"). BNSF requests that WFEC serve its written objections and answers by January 16, 2012, and that WFEC produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with WFEC to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League ("WCTL") to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time WFEC responds to these discovery requests. BNSF requests that WFEC promptly contact BNSF's undersigned counsel should WFEC have any questions regarding the meaning or scope of

any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

DEFINITIONS

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.
2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.
3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.
4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.
5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. "Joint Line" means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF's and Union Pacific Railroad Company's independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to WFEC, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. "Identify" as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. "Identify" as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. "Identify" as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

INTERROGATORIES

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

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6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies;

(c) the effectiveness of such methods; and

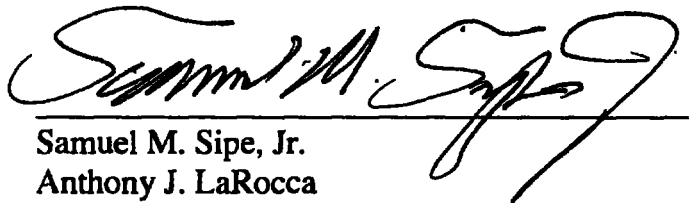
(d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.
Anthony J. LaRocca
Kathryn J. Gainey
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1330 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 429-3000

Richard E. Weicher
Jill K. Mulligan
BNSF RAILWAY COMPANY
2500 Lou Menk Drive
Fort Worth, TX 76131
(817) 352-2353

ATTORNEYS FOR
BNSF RAILWAY COMPANY

December 30, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter
Executive Director
National Coal Transportation Association
4 Meadow Lark Lane, #100
Littleton, CO 80127
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, DC 20036
E-mail: jhl@sloverandloftus.com

*Counsel for Western Coal Traffic League,
American Public Power Association, Edison
Electric Institute, and National Rural Electric
Cooperative Association*

Christopher S. Perry
U.S. Department of Transportation
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E-mail: mrosenthal@cov.com

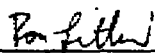
Counsel for Union Pacific Railroad Company

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*Counsel for Arkansas Electric Cooperative
Corporation*



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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
WESTERN FUELS ASSOCIATION, INC.**

BNSF Railway Company ("BNSF"), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Western Fuels Association, Inc. ("WFA"). BNSF requests that WFA serve its written objections and answers by January 16, 2012, and that WFA produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with WFA to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League ("WCTL") to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time WFA responds to these discovery requests. BNSF requests that WFA promptly contact BNSF's undersigned counsel should WFA have any questions regarding the meaning or scope of

any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

DEFINITIONS

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. "Joint Line" means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF's and Union Pacific Railroad Company's independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to WFA, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. "Identify" as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. "Identify" as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. "Identify" as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

INTERROGATORIES

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

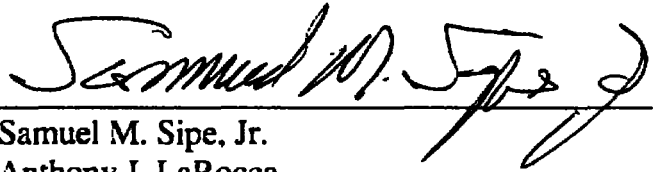
- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Samuel M. Sipe, Jr.", written over a horizontal line.

Samuel M. Sipe, Jr.
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(817) 352-2353

ATTORNEYS FOR
BNSF RAILWAY COMPANY

December 30, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter
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*Counsel for Western Coal Traffic League,
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Electric Institute, and National Rural Electric
Cooperative Association*

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Michael L. Rosenthal
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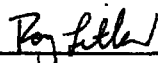
Counsel for Union Pacific Railroad Company

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E-mail: evonsalzen@mwmlaw.com

Sandra L. Brown
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Attorney for Ameren Missouri

*Counsel for Arkansas Electric Cooperative
Corporation*



Roy E. Eitland
Steptoe & Johnson LLP
1330 Connecticut Ave, N.W.
Washington, DC 20036
(202) 429-3000

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
WISCONSIN PUBLIC SERVICE CORPORATION**

BNSF Railway Company ("BNSF"), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Wisconsin Public Service Corporation ("WPS"). BNSF requests that WPS serve its written objections and answers by January 16, 2012, and that WPS produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with WPS to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League ("WCTL") to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time WPS responds to these discovery requests. BNSF requests that WPS promptly contact BNSF's undersigned counsel should WPS have any questions regarding the meaning or scope of

any of these discovery requests, the nature of the information and documents responsive to them, or the procedure for producing responsive material.

DEFINITIONS

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.

2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.

3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.

4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.

5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. "Joint Line" means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF's and Union Pacific Railroad Company's independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to WPS, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.
2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.
3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.
4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.
5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.
6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. "Identify" as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. "Identify" as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. "Identify" as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

INTERROGATORIES

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

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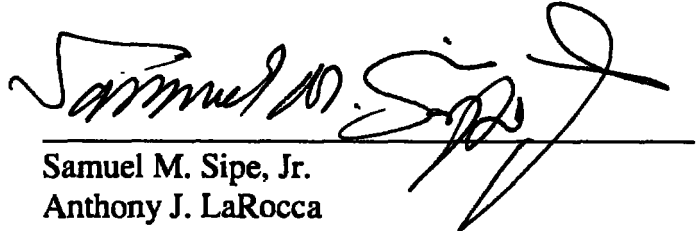
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8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Samuel M. Sipe, Jr.", is written over a horizontal line.

Samuel M. Sipe, Jr.
Anthony J. LaRocca
Kathryn J. Gainey
STEPTOE & JOHNSON LLP
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Washington, DC 20036
(202) 429-3000

Richard E. Weicher
Jill K. Mulligan
BNSF RAILWAY COMPANY
2500 Lou Menk Drive
Fort Worth, TX 76131
(817) 352-2353

ATTORNEYS FOR
BNSF RAILWAY COMPANY

December 30, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter
Executive Director
National Coal Transportation Association
4 Meadow Lark Lane, #100
Littleton, CO 80127
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, DC 20036
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*Counsel for Western Coal Traffic League,
American Public Power Association, Edison
Electric Institute, and National Rural Electric
Cooperative Association*

Christopher S. Perry
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Michael L. Rosenthal
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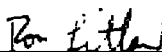
Counsel for Union Pacific Railroad Company

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Attorney for Ameren Missouri

*Counsel for Arkansas Electric Cooperative
Corporation*



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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**BNSF RAILWAY COMPANY'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO
XCEL ENERGY**

BNSF Railway Company ("BNSF"), pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, submits the following First Set of Interrogatories and Requests for Production of Documents to Xcel Energy. BNSF requests that Xcel Energy serve its written objections and answers by January 16, 2012, and that Xcel Energy produce copies of responsive documents at the offices of Steptoe & Johnson LLP on a rolling basis, with full production completed by January 30, 2012.

BNSF is prepared to cooperate with Xcel Energy to facilitate the expeditious and cost-efficient production of information responsive to these discovery requests. BNSF is also willing to abide by the terms of the joint proposed protective order for this case submitted by BNSF and Western Coal Traffic League ("WCTL") to the STB on December 20, 2011 in the event that the STB has not entered the protective order by the time Xcel Energy responds to these discovery requests. BNSF requests that Xcel Energy promptly contact BNSF's undersigned counsel should Xcel Energy have any questions regarding the meaning or scope of any of these discovery requests, the nature of the

information and documents responsive to them, or the procedure for producing responsive material.

DEFINITIONS

1. “Analyses” means any studies, reports, evaluations, memoranda, summaries, statistical compilations, presentations, reviews, audits, or other types of written, printed or electronic submissions of information, including drafts, preliminary, intermediate, and final versions.
2. “Black Hills Subdivision” means BNSF’s independently owned rail lines that extend from Campbell County, Wyoming at the north end of the Joint Line east through Edgemont and Alliance, Nebraska.
3. “BNSF” refers to BNSF Railway Company, and includes its predecessors.
4. “Coal Dust Loading Rule” means Item 100, and Appendices A and B thereto, of BNSF’s Coal Rules publication denominated as Price List 6041-B, as issued on July 14, 2011 and any subsequent iterations thereof.
5. “Communication” means the transmittal or exchange of information of any kind in any form, including oral, written, or electronic form, with another Person, whether Person to Person, in a group, in a meeting, by telephone, letter, telefax, electronic mail, text message, or otherwise, and including without limitation any printed, typed, handwritten, or other readable document, and any tape recording, correspondence, memorandum, report, contract, diary, logbook, minutes, note, study, analysis, survey, and forecast.

6. "Document(s)" is used in the broadest sense permitted by 49 C.F.R. § 1114.30 and should be interpreted to include all writings and records of every type in Your possession, custody or control, or known by You to exist including but not limited to: electronically stored information, electronic mail, testimony and exhibits, contracts, drafts, agreements, memoranda, correspondence, letters, reports (including drafts, preliminary, intermediate, and final reports), surveys, analyses (as defined above), evaluations, studies (including economic and market studies), summaries, comparisons, tabulations, work papers, statistical records, proposals, outlines, charts, books, pamphlets, periodicals, published material, magazines, newspapers, advertisements, brochures, blueprints, graphs, telegrams, photographs, maps, bulletins, corporate or other minutes, notes, diaries, log sheets, calendars, appointment books, address books, schedules, ledgers, journals, transcripts, microfilm, microfiche, computer tapes, computer discs, computer data and printouts, data compilations, mechanical and electrical recordings, telephone and telegraphic communications, data sheets or data processing cards, speeches, and all other records, tables, written, electronic, or otherwise, and drafts of any of the above; including every copy of a document that contains handwritten or other notations or that otherwise does not exactly duplicate the original or any other copy and any attachments or appendices to any document.

7. "Joint Line" means the rail line that extends south from Caballo Junction in Campbell County, Wyoming, over 100 miles to connections with BNSF's and Union Pacific Railroad Company's independently owned east-west lines.

8. “Load Profiling” means loading uncovered coal cars in accordance with the “Redesigned Chute Diagram” included in the Coal Dust Loading Rule.

9. “Person” means natural persons, corporations, institutions, partnerships, firms, joint ventures, associations, political subdivisions, organizations, or other entities of any kind.

10. “Refer or relate to” means information that contains, describes, discusses, embodies, comments upon, identifies, incorporates, explains, contradicts, supports, regards, evidences, evaluates, summarizes, constitutes, comprises, or otherwise pertains to the subject matter of the request.

11. “Topper Agent” means a chemical agent, such as a surfactant, that is applied to the surface of loaded rail cars for the purpose of reducing the amount of coal that is lost from rail cars while the coal is in transit by rail.

12. “You” and “Your” refer to Xcel Energy, as well as its parent, predecessors, successors, subsidiaries, any of its employees, agents, partners, officers, directors, advisors, representatives, attorneys, independent contractors, expert consultants, affiliates, divisions, or departments, assignees, and all other persons acting (or who act or have acted) on its behalf.

13. When used in these requests, the phrase “in transit by rail” should be construed to include the movement of coal over any rail lines of any railroad and is not limited to movements of coal over the Joint Line or over BNSF’s lines in the Black Hills Subdivision.

INSTRUCTIONS

1. Unless otherwise indicated, these requests cover the period from January 1, 2010 to the time Your responses are served on BNSF.

2. You are not required to reproduce any responsive documents produced in STB Finance Docket No. 35305 if the STB approves the proposed protective order that BNSF and WCTL filed with the STB on December 20, 2011.

3. “And”/“Or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of each document request all documents which might otherwise be construed as outside the scope of the document request.

4. References to the singular shall be construed to be plural, and references to the plural shall be singular, as necessary in order to bring within the scope of each document request all documents which might otherwise be construed to be outside the scope of the document request.

5. If any document called for by these requests for production is available in machine-readable format, please produce the document or information in that format, along with a description of the format and a decoder as well as any other information, necessary and sufficient to permit access to and an understanding of the electronic information.

6. If You for any reason (including the assertion of privilege), withhold documents or information responsive to any of these interrogatories or document requests, You should state the specific factual and legal basis for doing so in Your

response to these discovery requests, and produce documents or information for any part of the interrogatory or request which is not alleged to be objectionable or protected.

7. “Identify” as used herein with respect to a document shall be read to require a statement of all of the following information regarding the document:

- (a) Type of document (e.g., letter, memo, e-mail, etc.);
- (b) Subject matter;
- (c) Date;
- (d) Author(s); and
- (e) Addressee(s).

8. “Identify” as used herein with respect to any person, including an entity or natural person, shall be read to require a statement of all of the following information relating to such entity or individual:

- (a) Full name;
- (b) Present or last known employer;
- (c) Present or last known business address or, alternatively, home address;
- (d) Present or last known title;
- (e) Address of principal place of business or other activity; and
- (f) Present or last known phone number.

9. “Identify” as used herein with respect to any communication, including any telephone conversation, correspondence, or meeting shall be read to require a statement of all of the following information:

- (a) The date on which it occurred;

(b) The identity of each and every person who was present or who participated;
and

(c) The place at which it occurred (or, in the case of a telephone conversation, the location of each party).

INTERROGATORIES

1. Please identify any studies or analyses that You are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

2. Please state whether You have caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

3. Please state whether You have caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

4. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

5. Please describe arrangements that You have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

6. Please describe requests made by You to a coal mine or a supplier of coal dust suppression products or services for estimates of the costs to apply coal dust

suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

7. Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by You to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

1. Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

2. Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

(a) the costs of such methods;

(b) any comparisons of the costs of such methods with the costs of alternative methodologies; and

(c) the effectiveness of such methods.

3. Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other

communications between You and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

4. Please produce all documents that refer or relate to Your plans to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

5. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

6. Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

7. Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

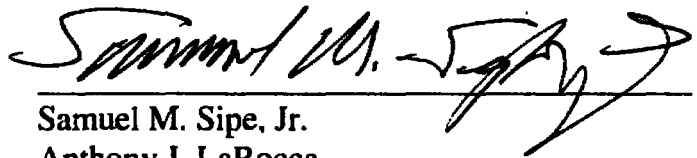
- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

8. Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

9. Please produce all documents that refer or relate to communications between You and any Person regarding the Coal Dust Loading Rule.

10. Please produce all documents identified in Your responses to BNSF's Interrogatories, and all documents that contain facts upon which Your responses to BNSF's Interrogatories are based.

Respectfully submitted,



Samuel M. Sipe, Jr.
Anthony J. LaRocca
Kathryn J. Gainey
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1330 Connecticut Avenue, N.W.
Washington, DC 20036
(202) 429-3000

Richard E. Weicher
Jill K. Mulligan
BNSF RAILWAY COMPANY
2500 Lou Menk Drive
Fort Worth, TX 76131
(817) 352-2353

ATTORNEYS FOR
BNSF RAILWAY COMPANY

December 30, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this thirtieth day of December, 2011, I caused a copy of the foregoing to be served by e-mail and first-class mail, postage prepaid, upon all parties of record in this case as follows:

Thomas C. Canter
Executive Director
National Coal Transportation Association
4 Meadow Lark Lane, #100
Littleton, CO 80127
E-mail: tom@nationalcoaltransportation.org

John H. LeSeur
Slover & Loftus
1224 Seventeenth Street, N.W.
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*Counsel for Western Coal Traffic League,
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Electric Institute, and National Rural Electric
Cooperative Association*

Christopher S. Perry
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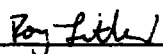
Counsel for Union Pacific Railroad Company

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Attorney for Ameren Missouri

*Counsel for Arkansas Electric Cooperative
Corporation*



Roy E. Litland
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(202) 429-3000

Exhibit 5

SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036-3003

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PETER A. PFOHL
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DONALD G. AVERY

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(202) 347-3619

WRITER'S E-MAIL:

jhl@sloverandloftus.com

January 17, 2012

VIA EMAIL

Samuel M. Sipe, Jr., Esq.
Steptoe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036

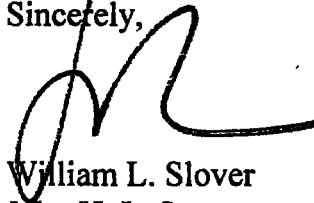
Re: STB Finance Docket No. 35557, *Reasonableness of BNSF Railway
Company Coal Dust Mitigation Tariff Provisions ("Coal Dust II")*

Dear Sam:

On December 30, 2011, the undersigned received sets of interrogatories and document production requests (collectively "Requests") from BNSF Railway Company ("BNSF") in the *Coal Dust II* proceeding directed to the following entities: Ameren Energy Fuels & Services Company, Arizona Electric Power Cooperative, Inc., Austin Energy, CLECO Corporation, CPS Energy, Entergy Services, Inc., Kansas City Power & Light Company, Lower Colorado River Authority, MidAmerican Energy Company, Minnesota Power, Nebraska Public Power District, Omaha Public Power District, Texas Municipal Power Agency, Western Farmers Electric Cooperative, Western Fuels Association, Inc., Wisconsin Public Service Corporation, and Xcel Energy (collectively "Entities").

BNSF's Requests are not permitted under the Surface Transportation Board's Rules of Practice because none of the Entities is a party to the *Coal Dust II* proceeding. See 49 C.F.R. §§ 1101.2(d), 1114.26 and 1114.30. Accordingly, we have been authorized by the Entities to inform you that they will not be responding further to the Requests.

Sincerely,



William L. Slover
John H. LeSeur
Andrew B. Kolesar III
Peter A. Pfohl

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35557

**REASONABLENESS OF BNSF RAILWAY COMPANY
COAL DUST MITIGATION TARIFF PROVISIONS**

**RESPONSES AND OBJECTIONS TO BNSF
RAILWAY COMPANY'S FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS
TO WESTERN COAL TRAFFIC LEAGUE**

The Western Coal Traffic League ("WCTL"), pursuant to 49 C.F.R. Part 1114, hereby responds to the First Set of Interrogatories and Requests for Production of Documents (collectively "Requests") served by BNSF Railway Company ("BNSF") on December 30, 2011.

GENERAL RESPONSES AND OBJECTIONS

In addition to the specific objections raised below in response to individual Requests, WCTL objects generally to BNSF's Definitions, Instructions, Interrogatories, and Requests as follows:

1. WCTL objects to BNSF's Requests to the extent that they seek documents or information protected by the attorney-client privilege and/or subject to the attorney work-product doctrine. Any production of privileged or otherwise protected documents is inadvertent and shall not constitute a waiver of any claim of privilege or other protection. In addition, WCTL objects to BNSF Instruction No. 7 (requiring

WCTL to state the specific factual and legal basis for withholding documents) on grounds of burden and relevance.

2. WCTL objects to BNSF's Requests to the extent they would impose burdens or obligations on WCTL exceeding those specified in applicable provisions of the Board's Rules of Practice at 49 C.F.R. Part 1114, as interpreted and applied in prior Board rulings, and reserves the right to supplement its objections as necessary.

3. WCTL objects to BNSF's Requests seeking WCTL to "identify," "state," "describe," or "explain," and to BNSF's Instruction Nos. 8, 9, and 10 as unduly burdensome and beyond the scope of permissible discovery to the extent the Requests would impose a burden or obligation on WCTL exceeding those specified in applicable provisions of the Board's Rules of Practice at 49 C.F.R. Part 1114.

4. WCTL objects to BNSF's Requests as unduly burdensome to the extent that they seek documents or information: (i) in BNSF's own possession; (ii) readily available from public sources; (iii) produced and/or filed in STB Finance Docket No. 35305; or (iv) the subject of WCTL's discovery requests to BNSF in this proceeding.

5. WCTL objects to BNSF's Definition No. 9 ("Member Company"), Definition No. 13 ("You" and "Your"), and Instruction No. 3 ("documents in the possession, custody, or control of You or Your Member Companies"), to the extent that they request documents or information from WCTL not in its possession, custody, or control, including, but not limited to, documents or information in the possession, custody, or control of its members. WCTL's members are not parties to this proceeding and WCTL does not control those members or their records.

6. WCTL objects to producing documents or information that is confidential, commercially sensitive, or proprietary, including sensitive nonpublic information relating to third parties, except to the extent disclosure is permitted under the protective order in this proceeding.

7. WCTL objects to BNSF's Requests to the extent they request information in a format not maintained by WCTL in the regular course of business or not readily available in the form requested by BNSF. Where a Request seeks relevant, non-privileged information in a form different from that maintained by WCTL in its ordinary course of business, WCTL will produce any responsive information in the form in which it is maintained by WCTL in the ordinary course of business.

8. WCTL objects to BNSF's Requests to the extent they seek the production of or information regarding "all documents" or "any studies," that "discuss," "analyze," "refer or relate" to a particular subject on grounds that those Requests are overly broad and unduly burdensome. WCTL will conduct a reasonable, good faith search for non-privileged, responsive information and documents.

9. WCTL objects to BNSF's Requests to the extent they would require WCTL to engage in a special study.

10. WCTL's willingness to produce some or all of the information sought by a particular Request should not be interpreted either as a waiver of WCTL's objections or as an admission that such information is relevant to the case.

11. WCTL objects to BNSF's Requests to the extent they seek information or documents created before November 1, 2009.

WCTL's following specific objections, answers and responses to BNSF's Requests are subject to, and without waiver of, the foregoing general objections..

INTERROGATORIES

Interrogatory No. 1: Please identify "the material concerning the[] test results and procedures [underlying the Coal Dust Loading Rule] that is available," as referred to at page 2 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation.

Response:

Subject to and without waiving its general objections, WCTL states that the referenced "material" is identified on pages 17-22 of WCTL's August 11, 2011 Petition, including the Verified Statements and associated Exhibits cited therein.

Interrogatory No. 2: Please explain the basis for Your statement that "the material concerning the[] test results and procedures [underlying the Coal Dust Loading Rule] that is available indicates that the results and procedures are fatally flawed," as referred to at page 2 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation.

Response:

Subject to and without waiving its general objections, WCTL states that the referenced discussion of the flaws in BNSF's tests and procedures is explained on pages 17-22 of WCTL's August 11, 2011 Petition, including the Verified Statements and associated Exhibits cited therein. WCTL hereby incorporates those explanations by reference.

Interrogatory No. 3: Please identify and explain the basis for Your statement that "BNSF has hinted strongly in the past that it would refuse service" to shippers who do not

comply with the Coal Dust Loading Rule, as referred to at page 8 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation.

Response:

Subject to and without waiving its general objections, WCTL states that the basis for this statement is set forth in the record in STB Finance Docket No. 35305, and includes the following:

- Coal Shippers' Opening Evidence in STB Finance Docket No. 35305 referenced a press report stating: "A top BNSF official told utility customers this month that penalties for not meeting dust standards include a \$1 per ton fine and possibly temporarily halting service." Coal Shippers' March 16, 2010 Opening Evidence at 49 n.24 (citing Platt's Coal Trader, 'UP Letter Mulls Implications of Coal Dust Rules,' October 19, 2009).

- BNSF's Opening Evidence in STB Finance Docket No. 35305 stated that "BNSF would reserve the right to decline to provide service" if a shipper failed to adhere to BNSF's coal dust tariff. BNSF Opening Evidence at 26-27.

- Coal Shippers discussed BNSF's threatened refusal to provide service in their Reply Evidence and their Rebuttal Evidence in STB Finance Docket No. 35305. *See, e.g.*, Coal Shippers' April 30, 2010 Reply Evidence at 28-32; Coal Shippers' June 4, 2010 Rebuttal Evidence at 67-68.

Interrogatory No. 4: Please identify any studies or analyses that You or a Member Company are aware of that evaluate, estimate, or otherwise refer or relate to the costs of coal dust suppression products or services.

Response:

WCTL objects to this Request to the extent that it seeks information that is not in its possession, custody, or control. *See* General Objection No. 5. WCTL also objects to this Request to the extent that it seeks information regarding studies or analyses performed by BNSF or its consultants and which therefore are available from BNSF's own files. In addition, WCTL objects to this Request to the extent that it seeks information regarding studies or analyses that were produced or filed in STB Finance Docket No. 35305. WCTL also objects to this Request to the extent that it seeks information regarding "any studies or analyses" that "evaluate, estimate, or otherwise refer or relate" to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that through its counsel, it is aware of studies and information from the record in STB Finance Docket No. 35305 referring or relating to the costs of coal dust suppression products or services. Some of those studies or analyses were addressed in filings made by the parties in STB Finance Docket No. 35305. *See, e.g.*, Coal Shippers' March 16, 2010 Opening Evidence at 37-39, Crowley V.S. at 4-6; Coal Shippers' June 4, 2010 Rebuttal Evidence at 56-58, Crowley Reb. V.S. at 14-17.

Interrogatory No. 5: Please explain the basis for Your statement that the estimated cost of complying with the Coal Dust Loading Rule is "in the \$50 million to \$150 million range annually," as referred to at page 24 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation and at page 4 of the August 4, 2011 Verified Statement of Duane L. Richards.

Response:

Subject to and without waiving its general objections, WCTL states that the basis for the statement on page 24 of the August 11 Petition was Mr. Richards' Verified Statement. In addition, WCTL states that Mr. Richards explained that the basis for his referenced statement was an estimate from the National Coal Transportation Association ("NCTA"). See Richards V.S. at 4 ("I would add here that while no one knows how much it will cost to spray all PRB trains, the National Coal Transportation Association has estimated that these costs will be in the \$50 million to \$150 million range annually."). That estimate appears on page 6 of NCTA's March 16, 2010 Opening Statement in STB Finance Docket No. 35305.

Interrogatory No. 6: Please describe the formation, organization, and operation of WCTL, including but not limited to:

- (a) the type of entity (association, corporation, or other type of entity), if any, that WCTL is organized as;
- (b) the jurisdiction, if any, where WCTL has filed any organizational documents;
- (c) the identity of WCTL's Member Companies;
- (d) the frequency of meetings held by WCTL; and
- (e) the services provided by WCTL to Member Companies, other than participating in litigation.

Response:

WCTL objects to this Request on grounds that it seeks information regarding WCTL's organization, meetings, membership, and services that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving its general and specific objections, WCTL states that it is an unincorporated, voluntary association comprised of shippers of coal produced from United States mines located west of the Mississippi River. WCTL's principal mission is to promote the interests of such shippers, particularly with respect to the subject of coal transportation. WCTL members include publicly traded companies, local governments, cooperatives, and government authorities.

WCTL provides forums to discuss various policy and regulatory matters of interest to its members. WCTL holds two meetings each year (Fall and Winter) where emerging legislative and regulatory developments are discussed. Speakers at WCTL's meetings have included, for example, STB Chairman Elliott, STB Vice Chairman Mulvey, STB Commissioner Begeman, STB Staff, Capitol Hill staff, representatives of various administrative agencies, national coal and transportation association representatives, Congressional Research Service staff, and a number of distinguished transportation industry members, including but not limited to Mr. Robert Krebs.

WCTL further states that its members currently are: Ameren Energy Fuels & Services, Arizona Electric Power Cooperative, Inc., Austin Energy, CLECO Corporation, CPS Energy, Entergy Services, Inc., Kansas City Power & Light Company, Lower Colorado River Authority, MidAmerican Energy Company, Minnesota Power, Nebraska Public Power District, Omaha Public Power District, Texas Municipal Power Agency, Western Farmers Electric Cooperative, Western Fuels Association, Inc., and Wisconsin Public Service Corporation.

Interrogatory No. 7: Please identify each Member Company that has caused a Topper Agent to be applied to at least one rail car loaded with coal since July 1, 2010.

Response:

WCTL objects to this Request to the extent that it seeks information that is not in its possession, custody, or control. *See* General Objection No. 5. Moreover, WCTL objects to this Request to the extent that BNSF already is aware of the identity of coal shippers who have caused Topper Agents to be applied to their railcars since July 1, 2010.

Subject to and without waiving its general and specific objections, WCTL states that one member has informed WCTL that it has applied a Topper Agent to at least one railcar since July 1, 2010.

Interrogatory No. 8: Please identify each Member Company that has caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

Response:

WCTL objects to this Request to the extent that it seeks information that is not in its possession, custody, or control. *See* General Objection No. 5.

Subject to and without waiving its general and specific objections, WCTL states that no member has informed WCTL that it has caused a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to be applied to at least one rail car loaded with coal since July 1, 2010.

Interrogatory No. 9: Please describe arrangements that any of Your Member Companies have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a Topper Agent to rail cars loaded with coal.

Response:

WCTL objects to this Request to the extent that it seeks information that is not in its possession, custody, or control. *See* General Objection No. 5.

Subject to and without waiving its general and specific objections, WCTL states that no member has informed it regarding arrangements with coal mines and/or suppliers of coal dust suppression products or services for the future application of Topper Agents to rail cars loaded with coal.

Interrogatory No. 10: Please describe arrangements that any of Your Member Companies have made with a coal mine or a supplier of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

Response:

WCTL objects to this Request to the extent that it seeks information that is not in its possession, custody, or control. *See* General Objection No. 5.

Subject to and without waiving its general and specific objections, WCTL states that no member has informed it regarding specific arrangements with coal mines and/or suppliers of coal dust suppression products or services for the future application of a method of suppressing coal dust, other than a Topper Agent or Load Profiling, to rail cars loaded with coal.

Interrogatory No. 11: Please describe requests made by any of Your Member Companies to a coal mine or a supplier of coal dust suppression products or services for estimates of

the costs to apply coal dust suppression products or services, including but not limited to Topper Agents, to rail cars loaded with coal, and please describe any responses to such requests.

Response:

WCTL objects to this Request to the extent that it seeks information that is not in its possession, custody, or control. *See* General Objection No. 5.

Subject to and without waiving its general and specific objections, WCTL states that no member has informed it of: (i) requests made to coal mines and/or suppliers of coal dust suppression products or services for estimates of the costs to apply coal dust suppression products or services; or (ii) any responses given to such requests.

Interrogatory No. 12: Please identify any coal dust suppression products or services, including but not limited to chemicals applied to coal at the mines or at power generating facilities, employed by any of Your Member Companies to reduce the amount of coal that is lost from coal stockpiles at power generating facilities, and please identify the costs of applying any such coal dust suppression products or services.

Response:

WCTL objects to this Request to the extent that it seeks information that is not in its possession, custody, or control. *See* General Objection No. 5. WCTL also objects to this Request on grounds of relevance.

Subject to and without waiving its general and specific objections, WCTL states that no member has informed it regarding specific coal dust suppression products or services employed to reduce the amount of coal that is lost from coal stockpiles at power generating facilities and/or the cost of applying any such coal dust suppression products or services.

REQUESTS FOR PRODUCTION

Document Request No. 1: Please produce all documents created on or after January 1, 2005 that contain, reflect, or otherwise refer or relate to analyses performed by You, a Member Company, or any other Person relating to the quantity of coal lost from rail cars while the coal is in transit by rail.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5.

WCTL also objects to this Request to the extent that it seeks "all documents" that "contain, reflect, or otherwise refer or relate" to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 2: Please produce all documents created on or after January 1, 2005 that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from rail cars while the coal is in transit by rail, including but not limited to documents that refer or relate to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies; and
- (c) the effectiveness of such methods.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5.

WCTL also objects to this Request to the extent that it seeks “all documents” that “discuss, analyze, or otherwise refer or relate” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 3: Please produce all documents created on or after January 1, 2009 that refer or relate to arrangements, agreements, contracts, quotes, bids, offers, or any other communications between You or a Member Company and any Person, including but not limited to coal mines or suppliers of coal dust suppression products or services, regarding methods that could be used at coal mines to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5.

WCTL also objects to this Request to the extent that it seeks “all documents” that “refer or relate” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged,

responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 4: Please produce all documents that refer or relate to Your plans or the plans of Your Member Companies to reduce the amount of coal that is lost from rail cars while the coal is in transit by rail.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5. WCTL also objects to this Request to the extent that it seeks “all documents” that “refer or relate” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 5: Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on employees of railroads, coal mines, coal shippers, or utilities, or on property or rail cars owned by railroads, coal mines, coal shippers, or utilities.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5. WCTL also objects to this Request to the extent that it seeks “all documents” that

“discuss, analyze, or otherwise refer or relate” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 6: Please produce all documents that discuss, analyze, or otherwise refer or relate to the effect of coal dust suppression products or services on the generation of power at particular power generating facilities or at power generating facilities in general.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. See General Objection No. 5.

WCTL also objects to this Request to the extent that it seeks “all documents” that “discuss, analyze, or otherwise refer or relate” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 7: Please produce all documents that discuss, analyze, or otherwise refer or relate to methods for reducing the amount of coal that is lost from coal stockpiles at power generating facilities, including but not limited to:

- (a) the costs of such methods;
- (b) any comparisons of the costs of such methods with the costs of alternative methodologies;
- (c) the effectiveness of such methods; and
- (d) the impact such methods have on the generation of power at particular power generating facilities or at power generating facilities in general.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5.

WCTL also objects to this Request on grounds of relevance and to the extent that it seeks “all documents” that “discuss, analyze, or otherwise refer or relate” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 8: Please produce all minutes, reports, agendas, summaries, or other documents referring or relating to meetings or conferences, including meetings of WCTL committees or subcommittees, at which the subject of coal that is lost from rail cars while the coal is in transit by rail was discussed.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5.

WCTL also objects to this Request on grounds of relevance and burden. WCTL also objects to this Request to the extent that it seeks “all” documents “referring or relating” to

the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any.

Document Request No. 9: Please produce all formation and organizational documents regarding WCTL, including but not limited to articles of incorporation, certificates of registration, and by-laws.

Response:

WCTL objects to this Request on grounds that it is not reasonably calculated to lead to the discovery of relevant evidence in this proceeding.

Document Request No. 10: Please produce all documents that refer or relate to communications between You or a Member Company and any Person regarding the Coal Dust Loading Rule.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. See General Objection No. 5. WCTL also objects to this Request to the extent that it seeks “all documents” that “refer or relate” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged,

responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 11: Please produce all documents supporting, contravening, or otherwise referring or relating to Your statement that “the material concerning the[] test results and procedures [underlying the Coal Dust Loading Rule] that is available indicates that the results and procedures are fatally flawed,” as referred to at page 2 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. See General Objection No. 5.

WCTL also objects to this Request to the extent that it seeks “all” documents “supporting, contravening, or otherwise referring or relating” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 12: Please produce all documents supporting, contravening, or otherwise referring or relating to Your statement that the estimated cost of complying with the Coal Dust Loading Rule is “in the \$50 million to \$150 million range annually,” as referred to at page 24 of Your August 11, 2011 Petition to Reopen and for Injunctive Relief Pending Board-Supervised Mediation and page 4 of the August 4, 2011 Verified Statement of Duane L. Richards.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5.

WCTL also objects to this Request to the extent that it seeks “all” documents “supporting, contravening, or otherwise referring or relating” to the subject of the Request on grounds that such a request is overly broad and unduly burdensome.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Document Request No. 13: Please produce all documents identified in Your responses to BNSF’s Interrogatories, and all documents that contain facts upon which Your responses to BNSF’s Interrogatories are based.

Response:

WCTL objects to this Request to the extent that it seeks the production of documents not within its possession, custody, or control. *See* General Objection No. 5.

Subject to and without waiving its general and specific objections, WCTL states that it will engage in a reasonable, good faith search of its files for non-privileged, responsive documents, if any, other than documents produced or filed in STB Finance Docket No. 35305.

Respectfully submitted,

THE WESTERN COAL TRAFFIC LEAGUE

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Dated: January 17, 2012

Attorneys for Complainant

CERTIFICATE OF SERVICE

I hereby certify that, this 17th day of January, 2012, I have caused copies of the above discovery responses and objections to be served by electronic mail and by U.S.

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